

Letters of Junius

Edited by HANNAFORD BENNETT

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Letters of Junius

(Selected)

With Biographical Introduction

by

Hannaford Bennett



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Bibliographical Introduction

DISRAELI included among the bores persons who held theories as to the authorship of the *Letters of Junius*. But it is possible to be interested in the *Letters* as examples of polemical literature without attempting to enter upon the larger controversy as to who wrote them. The indirect evidence points almost conclusively to Sir Philip Francis as the author, but the mystery is as much a mystery to-day as it ever was. The motto of Junius, "*Stat nominis umbra*," and his boast that he was the sole depositary of his own secret and that it should perish with him, have not essentially been disturbed by the multitudinous literature which has grown round the Junian controversy, or by the army of investigators whose labours have extended for well over a hundred years.

The letters which are known to have emanated from Junius were written during a period of five years—from 1767 to 1772. The first letter was signed "Poplicola," and dated 28th April 1767, and the last letter was signed "Nemesis," and dated 12th May 1772; and each letter appeared in the *Public Advertiser*, which was the most

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influential print of the time. At first not one but a variety of disguises were assumed by Junius, of which Mnemon, Atticus, Brutus, Lucius, Domitian and Vindex were the most frequent. The letters signed "Junius" appeared from 21st January 1769 to 21st January 1772, a period of exactly three years. The first letter produced such an effect that the writer decided to adhere to this signature for letters which he wished to have attributed to himself, and over which he took special pains. The letters signed "Philo-Junius" were exceptions. Junius avowed Philo-Junius, which, he said, was an auxiliary part "and indispensably necessary to defend or explain particular passages in Junius."

Some of the *Letters of Junius* were addressed "to the printer of the *Public Advertiser*," and others to individual members of the Government. They were copied into the morning and evening newspapers of the kingdom, and their imagery and insight into character, their felicitous phrasing and wit and biting satire, and their amazing audacity created a sensation which it is not difficult to understand. We know now that the fears for the future of constitutional government which they express and which the Government's treatment of Wilkes engendered, were exaggerated; and that the King's attempt, by the aid of a huge civil list of nine hundred thousand pounds a year, supplemented by occasional Parliamentary grants, to

establish a personal ascendancy, was doomed to failure.

Nearly a year after the commencement of the correspondence Junius addressed a letter to the King himself. It was couched in language of studied moderation, and was free from the scorching bitterness of the other letters. But the Attorney-General straightway filed a Bill in the Court of King's Bench against Henry Woodfall, the printer of the *Public Advertiser*, charging him with "uttering a false and seditious libel." The case was tried before Lord Mansfield, and the jury, after a protracted consideration, brought in a verdict of "Guilty of printing and publishing only." The insertion of the word "only" complicated the issue, and the case was ultimately dismissed and Woodfall discharged. A new trial was commenced, but abandoned upon technical grounds.

Persistent traps were laid to pierce the identity of Junius, but his own extreme care and the fidelity of the printer enabled him to evade them. David Garrick, who tried to discover him, aroused his particular resentment; Garrick was a "rascal and a vagabond" who must "keep to his pantomimes" or he would "curse the day." In a letter to Sir William Draper, Junius says:—"As to me, it is by no means necessary that I should be exposed to the resentment of the worst and the most powerful men in this country, though I may be

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indifferent about yours. Though you would *fight*, there are others who would *assassinate* ;” and in a letter to Woodfall he wrote: “I must be more cautious than ever. I am sure I should not survive a discovery three days ; or, if I did, they would attain me by bill.” The letters for publication and the private instructions were delivered to Woodfall by hand, and when a letter or parcel was waiting for Junius the *Public Advertiser* announced it in the notices to its correspondents by such signals as “N. E. C., a letter” ; “Vindex shall be considered” ; “C. in the usual place” ; or a line of Latin poetry. “Don’t always use the same signal” wrote Junius ; “any absurd Latin verse will answer the purpose.” The letters and parcels for Junius were addressed under a common name such as “Mr William Middleton,” or “Mr John Fretly,” and left at the Somerset Coffee House, the New Exchange, or Munday’s Coffee House in Maiden Lane ; but whether they were obtained by Junius or by an emissary is not clearly known. In a private letter to Woodfall of 18th January 1772, Junius says: “The gentleman who transacts the conveyancing part of our correspondence tells me there was much difficulty last night.”

Many spurious reprints of the *Letters* were published, and Woodfall decided to issue a genuine edition. To this “authorised edition” Junius contributed a “Preface” and a “Dedication to

the English Nation ;” and it included five letters from Sir William Draper, three from the Rev. John Horne, and the explanatory letters of Philo-Junius. Woodfall offered Junius a share in the profits, to which he replied : “What you say about the profits is very handsome. I like to deal with such men. As for myself, be assured that I am far above all pecuniary views, and no other person, I think, has any claim to share with you. Make the most of it, therefore, and let all your views in life be directed to a solid, however moderate independence ; without it no man can be happy, nor even honest.” The last letter of Junius to Woodfall was received on 19th January 1773, after a silence of nine months, and was in response to repeated signals in the *Public Advertiser* : “I have seen the signals thrown out for your old friend and correspondent. Be assured that I have good reason for not complying with them. . . . I meant well by the cause and the public. Both are given up. I feel for the honour of this country when I see that there are not ten men in it who will unite and stand together upon any one question. But it is all alike vile and contemptible. You have never flinched that I know of, and I shall always rejoice to hear of your prosperity.” Eventually Woodfall printed an edition of the *Letters* including the private correspondence and the public letters bearing different signatures ; but although many of them display great ability, it was the *Letters of*

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Junius that influenced public opinion. It was upon these that Junius rested his hope of remembrance "when," as he wrote, "kings and ministers are forgotten, when the force and direction of personal satire is no longer understood, and when measures are only felt in their remotest consequences."

HANNAFORD BENNETT

Letters of Junius

DEDICATION TO THE ENGLISH NATION

I DEDICATE to You a collection of Letters, written by one of Yourselves for the common benefit of us all. They would never have grown to this size, without Your continued encouragement and applause. To me they originally owe nothing, but a healthy, sanguine constitution. Under *Your* care they have thriven. To *You* they are indebted for whatever strength or beauty they possess. When Kings and Ministers are forgotten, when the force and direction of personal satire is no longer understood, and when measures are only felt in their remotest consequences, this book will, I believe, be found to contain principles, worthy to be transmitted to posterity. When You leave the unimpaired, hereditary freehold to Your children, You do but half Your duty. Both liberty and property are precarious, unless the possessors have sense and spirit enough to defend them.—This is not the language of vanity. If I am a vain man, my gratification lies within a narrow

circle. I am the sole depositary of my own secret, and it shall perish with me.

If an honest, and, I may truly affirm, a laborious zeal for the public service has given me any weight in Your esteem, let me exhort and conjure You never to suffer an invasion of Your political constitution, however minute the instance may appear, to pass by, without a determined, persevering resistance. One precedent creates another. They soon accumulate, and constitute law. What yesterday was fact, to-day is doctrine. Examples are supposed to justify the most dangerous measures, and where they do not suit exactly, the defect is supplied by analogy.—Be assured that the laws, which protect us in our civil rights, grow out of the constitution, and that they must fall or flourish with it. This is not the cause of faction, or of party, or of any individual, but the common interest of every man in Britain. Although the King should continue to support his present system of government, the period is not very distant, at which You will have the means of redress in Your own power. It may be nearer perhaps than any of us expect, and I would warn you to be prepared for it. The King may possibly be advised to dissolve the present parliament a year or two before it expires of course, and precipitate a new election, in hopes of taking the nation by surprise. If such a measure be in agitation, this very caution may defeat or prevent it.

I cannot doubt that You will unanimously assert the freedom of election, and vindicate Your exclusive right to chuse Your representatives. But other questions have been started, on which Your determination should be equally clear and unanimous. Let it be impressed upon Your minds, let it be instilled into Your children, that the liberty of the press is the *palladium* of all the civil, political, and religious rights of an Englishman, and that the right of juries to return a general verdict, in all cases whatsoever, is an essential part of our constitution, not to be controuled or limited by the judges, nor in any shape questionable by the legislature. The power of King, Lords, and Commons is not an arbitrary power. They are the trustees, not the owners of the estate. The fee-simple is in US. They cannot alienate, they cannot waste. When we say that the legislature is *supreme*, we mean that it is the highest power known to the constitution:—that it is the highest in comparison with the other subordinate powers established by the laws. In this sense, the word *supreme* is relative, not absolute. The power of the legislature is limited, not only by the general rules of natural justice, and the welfare of the community, but by the forms and principles of our particular constitution. If this doctrine be not true, we must admit, that King, Lords, and Commons have no rule to direct their resolutions, but merely their own will and pleasure. They might unite the legislative and executive power

in the same hands, and dissolve the constitution by an act of parliament. But I am persuaded You will not leave it to the choice of seven hundred persons, notoriously corrupted by the crown, whether seven millions of their equals shall be freemen or slaves. The certainty of forfeiting their own rights, when they sacrifice those of the nation, is no check to a brutal degenerate mind. Without insisting upon the extravagant concession made to Harry the Eighth, there are instances, in the history of other countries, of a formal, deliberate surrender of the public liberty into the hands of the sovereign. If England does not share the same fate, it is because we have better resources, than in the virtue of either House of parliament.

I said that the liberty of the press is the *paladium* of all Your rights, and that the right of juries to return a general verdict is part of Your constitution. To preserve the whole system, You must correct Your legislature. With regard to any influence of the constituent over the conduct of the representative, there is little difference between a seat in parliament for seven years and a seat for life. The prospect of Your resentment is too remote; and although the last session of a septennial parliament be usually employed in courting the favour of the people, consider that, at this rate, Your representatives have six years for offence, and but one for atonement. A death-bed repentance seldom reaches to restitution. If you reflect that in the changes of administration, which

have marked and disgraced the present reign, although your warmest patriots have, in their turn, been invested with the lawful and unlawful authority of the crown, and though other reliefs or improvements have been held forth to the people, yet that no one man in office has ever promoted or encouraged a bill for shortening the duration of parliaments, but that (whoever was minister) the opposition to this measure, ever since the septennial act passed, has been constant and uniform on the part of government,—You cannot but conclude, without the possibility of a doubt, that long parliaments are the foundation of the undue influence of the crown. This influence answers every purpose of arbitrary power to the crown, with an expense and oppression to the people, which would be unnecessary in an arbitrary government. The best of our ministers find it the easiest and most compendious mode of conducting the King's affairs; and all ministers have a general interest in adhering to a system, which of itself is sufficient to support them in office, without any assistance from personal virtue, popularity, labour, abilities, or experience. It promises every gratification to avarice and ambition, and secures impunity.—These are truths unquestionable.—If they make no impression, it is because they are too vulgar and notorious. But the inattention or indifference of the nation has continued too long. You are roused at last to a sense of Your danger.—The remedy will soon be in Your power. If

JUNIUS lives, You shall often be reminded of it. If, when the opportunity presents itself, You neglect to do Your duty to Yourself and to your posterity,—to God and to Your country,—I shall have one consolation left, in common with the meanest and basest of mankind.—Civil liberty may still last the life of

JUNIUS.

TO SIR WILLIAM DRAPER, KNIGHT OF THE BATH

3rd March 1769.

SIR,—An academical education has given you an unlimited command over the most beautiful figures of speech. Masks, hatchets, racks, and vipers dance through your letters in all the mazes of metaphorical confusion. These are the gloomy companions of a disturbed imagination; the melancholy madness of poetry, without the inspiration. I will not contend with you in point of composition. You are a scholar, sir William, and, if I am truly informed, you write Latin with almost as much purity as English. Suffer me then, for I am a plain unlettered man, to continue that style of interrogation, which suits my capacity, and to which, considering the readiness of your answers, you ought to have no objection. Even Mr Bingley promises to answer, if put to the torture.

Do you then really think that, if I were to ask a *most virtuous man* whether he ever committed theft, or murder, it would disturb his peace of mind? Such a question might perhaps discompose the gravity of his muscles, but I believe it would little affect the tranquillity of his conscience. Examine your own breast, sir William, and you

will discover, that reproaches and enquiries have no power to afflict either the man of unblemished integrity, or the abandoned profligate. It is the middle compound character which alone is vulnerable; the man who, without firmness enough to avoid a dishonourable action, has feeling enough to be ashamed of it.

I thank you for your hint of the decalogue, and shall take an opportunity of applying it to some of your *most virtuous* friends in both Houses of parliament.

You seem to have dropped the affair of your regiment; so let it rest. When you are appointed to another, I dare say you will not sell it either for a gross sum, or for an annuity upon lives.

I am truly glad (for really, sir William, I am not your enemy, nor did I begin this contest with you) that you have been able to clear yourself of a crime, though at the expense of the highest indiscretion. You say that your half-pay was given you by way of pension. I will not dwell upon the singularity of uniting in your own person two sorts of provision, which in their own nature, and in all military and parliamentary views, are incompatible; but I call upon you to justify that declaration, wherein you charge your sovereign with having done an act in your favour, notoriously against law. The half-pay, both in Ireland and England, is appropriated by parliament; and if it be given to persons who, like you, are legally incapable of holding it, it is a breach of law. It would have

been more decent in you to have called this dishonourable transaction by its true name; a job to accommodate two persons, by particular interest and management at the Castle. What sense must government have had of your services, when the rewards they have given you are only a disgrace to you!

And now, sir William, I shall take my leave of you for ever. Motives very different from any apprehension of your resentment, make it impossible you should ever know me. In truth, you have some reason to hold yourself indebted to me. From the lessons I have given you, you may collect a profitable instruction for your future life. They will either teach you so to regulate your conduct, as to be able to set the most malicious enquiries at defiance; or, if that be a lost hope, they will teach you prudence enough not to attract the public attention to a character, which will only pass without censure, when it passes without observation.

JUNIUS.

TO HIS GRACE THE DUKE OF GRAFTON

18th March 1769.

MY LORD,—Before you were placed at the head of affairs, it had been a maxim of the English government, not unwillingly admitted by the people, that every ungracious or severe exertion of the prerogative should be placed to the account of the minister; but that whenever an act of grace or benevolence was to be performed, the whole merit of it should be attributed to the sovereign himself. It was a wise doctrine, my Lord, and equally advantageous to the king and to his subjects; for while it preserved that suspicious attention, with which the people ought always to examine the conduct of ministers, it tended at the same time rather to increase than to diminish their attachment to the person of their sovereign. If there be not a fatality attending every measure you are concerned in, by what treachery or by what excess of folly has it happened, that those ungracious acts, which have distinguished your administration, and which I doubt not were entirely your own, should carry with them a strong appearance of personal interest, and even of personal enmity, in a quarter, where no such

interest or enmity can be supposed to exist, without the highest injustice and the highest dishonour? On the other hand, by what judicious management have you contrived it, that the only act of mercy, to which you ever advised your sovereign, far from adding to the lustre of a character, truly gracious and benevolent, should be received with universal disapprobation and disgust? I shall consider it as a ministerial measure, because it is an odious one; and as your measure, my Lord Duke, because you are the minister.

As long as the trial of this chairman was depending, it was natural enough that government should give him every possible encouragement and support. The honourable service for which he was hired, and the spirit with which he performed it, made common cause between your Grace and him. The minister, who by secret corruption invades the freedom of elections, and the ruffian, who by open violence destroys that freedom, are embarked in the same bottom. They have the same interests, and mutually feel for each other. To do justice to your Grace's humanity, you felt for MacQuirk as you ought to do, and if you had been contented to assist him indirectly, without a notorious denial of justice, or openly insulting the sense of the nation, you might have satisfied every duty of political friendship, without committing the honour of your sovereign, or hazarding the reputation of his government. But when this unhappy man had been solemnly tried, convicted, and condemned;—

when it appeared that he had been frequently employed in the same services, and that no excuse for him could be drawn either from the innocence of his former life, or the simplicity of his character, was it not hazarding too much to interpose the strength of the prerogative between this felon and the justice of his country? You ought to have known that an example of this sort was never so necessary as at present; and certainly you must have known that the lot could not have fallen upon a more guilty object. What system of government is this? You are perpetually complaining of the riotous disposition of the lower class of people, yet when the laws have given you the means of making an example, in every sense unexceptionable, and by far the most likely to awe the multitude, you pardon the offence, and are not ashamed to give the sanction of government to the riots you complain of, and even to future murders. You are partial perhaps to the military mode of execution, and had rather see a score of these wretches butchered by the guards, than one of them suffer death by regular course of law. How does it happen, my Lord, that, in *your* hands, even the mercy of the prerogative is cruelty and oppression to the subject?

The measure it seems was so extraordinary, that you thought it necessary to give some reasons for it to the public. Let them be fairly examined.

1. You say *that Messrs Bromfield and Starling were not examined at MacQuirk's trial.* I will tell

your Grace why they were not. They must have been examined upon oath; and it was foreseen, that their evidence would either not benefit, or might be prejudicial to the prisoner. Otherwise, is it conceivable that his counsel should neglect to call in such material evidence?

2. You say that *Mr Foot did not see the deceased until after his death*. A surgeon, my Lord, must know very little of his profession, if, upon examining a wound, or a contusion, he cannot determine whether it was mortal or not.—While the party is alive, a surgeon will be cautious of pronouncing? whereas, by the death of the patient, he is enabled to consider both cause and effect in one view, and to speak with a certainty confirmed by experience.

Yet we are to thank your Grace for the establishment of a new tribunal. Your *inquisitio post mortem* is unknown to the laws of England, and does honour to your invention. The only material objection to it is, that if Mr Foot's evidence was insufficient, because he did not examine the wound till after the death of the party, much less can a negative opinion, given by gentlemen who never saw the body of Mr Clarke, either before or after his decease, authorise you to supersede the verdict of a jury, and the sentence of the law.

Now, my Lord, let me ask you, Has it never occurred to your Grace, while you were withdrawing this desperate wretch from that justice which the laws had awarded, and which the whole people of England demanded, against him, that

there is another man, who is the favourite of his country, whose pardon would have been accepted with gratitude, whose pardon would have healed all our divisions? Have you quite forgotten that this man was once your Grace's friend? Or is it to murderers only that you will extend the mercy of the crown?

These are questions you will not answer. Nor is it necessary. The character of your private life, and the uniform tenor of your public conduct, is an answer to them all.

JUNIUS.

TO HIS GRACE THE DUKE OF GRAFTON

10th April 1769.

MY LORD,—I have so good an opinion of your Grace's discernment, that when the author of the vindication of your conduct assures us, that he writes from his own mere motion, without the least authority from your Grace, I should be ready enough to believe him, but for one fatal mark, which seems to be fixed upon every measure, in which either your personal or your political character is concerned.—Your first attempt to support sir William Proctor ended in the election of Mr Wilkes; the second ensued success to Mr Glynn. The extraordinary step you took to make sir James Lowther lord paramount of Cumberland, has ruined his interest in that county for ever. The House List of Directors was cursed with the concurrence of government; and even the miserable Dingley could not escape the misfortune of your Grace's protection. With this uniform experience before us, we are authorised to suspect, that when a pretended vindication of your principles and conduct in reality contains the bitterest reflections upon both, it could not have been written without your immediate direction and assistance. The author, indeed, calls God to witness for him, with

all the sincerity, and in the very terms of an Irish evidence, *to the best of his knowledge and belief*. My Lord, you should not encourage these appeals to Heaven. The pious Prince, from whom you are supposed to descend, made such frequent use of them in his public declarations, that at last the people also found it necessary to appeal to Heaven in their turn. Your administration has driven us into circumstances of equal distress;—beware at least how you remind us of the remedy.

You have already much to answer for. You have provoked this unhappy gentleman to play the fool once more in public life, in spite of his years and infirmities, and to show us, that, as you yourself are a singular instance of youth without spirit, the man who defends you is a no less remarkable example of age without the benefit of experience. To follow such a writer minutely would, like his own periods, be a labour without end. The subject too has been already discussed, and is sufficiently understood. I cannot help observing, however, that, when the pardon of MacQuirk was the principal charge against you, it would have been but a decent compliment to your Grace's understanding, to have defended you upon your own principles. What credit does a man deserve, who tells us plainly, that the facts set forth in the king's proclamation were not the true motives on which the pardon was granted, and that he wishes that those chirurgical reports, which first gave occasion to certain doubts in the royal breast, had

not been laid before his Majesty. You see, my Lord, that even your friends cannot defend your actions, without changing your principles, nor justify a deliberate measure of government, without contradicting the main assertion on which it was founded.

The conviction of MacQuirk had reduced you to a dilemma, in which it was hardly possible for you to reconcile your political interest with your duty. You were obliged either to abandon an active useful partisan, or to protect a felon from public justice. With your usual spirit, you preferred your interest to every other consideration; and with your usual judgment, you founded your determination upon the only motives, which should not have been given to the public.

I have frequently censured Mr Wilkes's conduct, yet your advocate reproaches me with having devoted myself to the service of sedition. Your Grace can best inform us, for which of Mr Wilkes's good qualities you first honoured him with your friendship, or how long it was before you discovered those bad ones in him, at which, it seems, your delicacy was offended. Remember, my Lord, that you continued your connexion with Mr Wilkes long after he had been convicted of those crimes, which you have since taken pains to represent in the blackest colours of blasphemy and treason. How unlucky is it, that the first instance you have given us^{of} of a scrupulous regard to decorum is united with the breach of a moral obligation!

For my own part, my Lord, I am proud to affirm, that, if I had been weak enough to form such a friendship, I would never have been base enough to betray it. But, let Mr Wilkes's character be what it may, this at least is certain, that, circumstanced as he is with regard to the public, even his vices plead for him. The people of England have too much discernment to suffer your Grace to take advantage of the failings of a private character, to establish a precedent by which the public liberty is affected, and which you may hereafter, with equal ease and satisfaction, employ to the ruin of the best men in the kingdom.—Content yourself, my Lord, with the many advantages, which the unsullied purity of your own character has given you over your unhappy deserted friend. Avail yourself of all the unforgiving piety of the court you live in, and bless God that you “are not as other men are; extortioners, unjust, adulterers, or even as this publican.” In a heart void of feeling, the laws of honour and good faith may be violated with impunity, and there you may safely indulge your genius. But the laws of England shall not be violated, even by your holy zeal to oppress a sinner; and though you have succeeded in making him the tool, you shall not make him the victim of your ambition.

JUNIUS.

TO MR EDWARD WESTON

21st April 1769.

SIR,—I said you were an old man without the benefit of experience. It seems you are also a volunteer with a stipend of twenty commissions; and at a period when all prospects are at an end, you are still looking forward to rewards, which you cannot enjoy. No man is better acquainted with the bounty of government than you are.

“——ton impudence,
Temeraire vieillard, aura sa recompense.”

But I will not descend to an altercation either with the impotence of your age, or the peevishness of your diseases. Your pamphlet, ingenious as it is, has been so little read, that the public cannot know how far you have a right to give me the lie, without the following citation of your own words.

Page 6—“ 1. That he is persuaded that the motives, which he (Mr Weston) has alleged, must appear fully sufficient, with or without the opinions of the surgeons.

“ 2. That those very motives MUST HAVE BEEN the foundation, on which the earl of Rochford thought proper, &c.

“ 3. That he CANNOT BUT REGRET that the earl of Rochford seems to have thought proper to lay the chirurgical reports before the king, in preference to all the other sufficient motives,” &c.

Let the public determine whether this be defending government on their principles or your own.

The style and language you have adopted are, I confess, not ill suited to the elegance of your own manners, or to the dignity of the cause you have undertaken. Every common dauber writes rascal and villain under his pictures, because the pictures themselves have neither character nor resemblance. But the works of a master require no index. His features and colouring are taken from nature. The impression they make is immediate and uniform; nor is it possible to mistake his characters, whether they represent the treachery of a minister, or the abused simplicity of a king.

JUNIUS.

TO HIS GRACE THE DUKE OF GRAFTON

24th April 1769.

MY LORD,—The system you seemed to have adopted, when lord Chatham unexpectedly left you at the head of affairs, gave us no promise of that uncommon exertion of vigour, which has since illustrated your character, and distinguished your administration. Far from discovering a spirit bold enough to invade the first rights of the people, and the first principles of the constitution, you were scrupulous of exercising even those powers, with which the executive branch of the legislature is legally invested. We have not yet forgotten how long Mr Wilkes was suffered to appear at large, nor how long he was at liberty to canvass for the city and county, with all the terrors of an outlawry hanging over him. Our gracious sovereign has not yet forgotten the extraordinary care you took of his dignity and of the safety of his person, when at a crisis which courtiers affected to call alarming, you left the metropolis exposed for two nights together, to every species of riot and disorder. The security of the royal residence from insult was then sufficiently provided for in Mr Conway's firmness and lord Weymouth's discretion;

while the prime minister of Great Britain, in a rural retirement, and in the arms of faded beauty, had lost all memory of his sovereign, his country, and himself. In these instances you might have acted with vigour, for you would have had the sanction of the laws to support you. The friends of government might have defended you without shame, and moderate men, who wish well to the peace and good order of society, might have had a pretence for applauding your conduct. But these it seems were not occasions worthy of your Grace's interposition. You reserved the proofs of your intrepid spirit for trials of greater hazard and importance; and now, as if the most disgraceful relaxation of the executive authority had given you a claim of credit to indulge in excesses still more dangerous, you seem determined to compensate amply for your former negligence; and to balance the non-execution of the laws with a breach of the constitution. From one extreme you suddenly start to the other, without leaving, between the weakness and the fury of the passions, one moment's interval for the firmness of the understanding.

These observations, general as they are, might easily be extended into a faithful history of your Grace's administration, and perhaps may be the employment of a future hour. But the business of the present moment will not suffer me to look back to a series of events, which cease to be interesting or important, because they are suc-

ceeded by a measure so singularly daring, that it excites all our attention, and engrosses all our resentment.

Your patronage of Mr Luttrell has been crowned with success. With this precedent before you, with the principles on which it was established, and with a future House of Commons, perhaps less virtuous than the present, every county in England, under the auspices of the Treasury, may be represented as completely as the county of Middlesex. Posterity will be indebted to your Grace for not contenting yourself with a temporary expedient, but entailing upon them the immediate blessings of your administration. Boroughs were already too much at the mercy of government. Counties could neither be purchased nor intimidated. But their solemn determined election may be rejected, and the man they detest may be appointed, by another choice, to represent them in parliament. Yet it is admitted, that the sheriffs obeyed the laws and performed their duty. The return they made must have been legal and valid, or undoubtedly they would have been censured for making it. With every good-natured allowance for your Grace's youth and inexperience, there are some things which you cannot but know. You cannot but know that the right of the freeholders to adhere to their choice (even supposing it improperly exerted), was as clear and indisputable as that of the House of Commons to exclude one of their own members:—nor is it possible for you not to see the

wide distance there is between the negative power of rejecting one man, and the positive power of appointing another. The right of expulsion, in the most favourable sense, is no more than the custom of parliament. The right of election is the very essence of the constitution. To violate that right, and much more to transfer it to any other set of men, is a step leading immediately to the dissolution of all government. So far forth as it operates, it constitutes a House of Commons which *does not* represent the people. A House of Commons so formed would involve a contradiction and the grossest confusion of ideas; but there are some ministers, my Lord, whose views can only be answered by reconciling absurdities, and making the same proposition, which is false and absurd in argument, true in fact.

This measure, my Lord, is however attended with one consequence favourable to the people, which I am persuaded you did not foresee. While the contest lay between the ministry and Mr Wilkes, his situation and private character gave you advantages over him, which common candour, if not the memory of your former friendship, should have forbidden you to make use of. To religious men, you had an opportunity of exaggerating the irregularities of his past life;—to moderate men you held forth the pernicious consequences of faction. Men who, with this character, looked no farther than to the object before them, were not dissatisfied at seeing Mr Wilkes excluded from parliament.

You have now taken care to shift the question; or, rather, you have created a new one, in which Mr Wilkes is no more concerned than any other English gentleman. You have united this country against you on one grand constitutional point, on the decision of which our existence as a free people absolutely depends. You have asserted, not in words but in fact, that representation in parliament does not depend upon the choice of the freeholders. If such a case can possibly happen once, it may happen frequently; it may happen always;—and if three hundred votes, by any mode of reasoning whatsoever, can prevail against twelve hundred, the same reasoning would equally have given Mr Luttrell his seat with ten votes, or even with one. The consequences of this attack upon the constitution are too plain and palpable not to alarm the dullest apprehension. I trust you will find that the people of England are neither deficient in spirit nor understanding, though you have treated them as if they had neither sense to feel nor spirit to resent. We have reason to thank God and our ancestors, that there never yet was a minister in this country who could stand the issue of such a conflict; and with every prejudice in favour of your intentions, I see no such abilities in your Grace, as should entitle you to succeed in an enterprise, in which the ablest and basest of your predecessors have found their destruction. You may continue to deceive your gracious master with false representations of the temper and condition of his subjects.

You may command a venal vote, because it is the common established appendage of your office. But never hope that the freeholders will make a tame surrender of their rights, or that an English army will join with you in overturning the liberties of their country. They know that their first duty, as citizens, is paramount to all subsequent engagements, nor will they prefer the discipline, nor even the honours, of their profession, to those sacred original rights, which belonged to them before they were soldiers, and which they claim and possess as the birthright of Englishmen.

Return, my Lord, before it be too late, to that easy insipid system, which you first set out with. Take back your mistress;—the name of friend may be fatal to her, for it leads to treachery and persecution. Indulge the people. Attend Newmarket. Mr Luttrell may again vacate his seat; and Mr Wilkes, if not persecuted, will soon be forgotten. To be weak and inactive is safer than to be daring and criminal; and wide is the distance between a riot of the populace and a convulsion of the whole kingdom. You may live to make the experiment, but no honest man can wish you should survive it.

JUNIUS.

TO HIS GRACE THE DUKE OF GRAFTON

30th May 1769.

MY LORD,—If the measures in which you have been most successful, had been supported by any tolerable appearance of argument, I should have thought my time not ill employed, in continuing to examine your conduct as a minister, and stating it fairly to the public. But when I see questions, of the highest national importance, carried as they have been, and the first principles of the constitution openly violated, without argument or decency, I confess, I give up the cause in despair. The meanest of your predecessors had abilities sufficient to give a colour to their measures. If they invaded the rights of the people, they did not dare to offer a direct insult to their understanding; and, in former times, the most venal parliaments made it a condition, in their bargain with the minister, that he should furnish them with some plausible pretences for selling their country and themselves. You have had the merit of introducing a more compendious system of government and logic. You neither address yourself to the passions, nor to the understanding, but simply to the touch. You apply yourself immediately to the feelings of

your friends, who, contrary to the forms of parliament, never enter heartily into a debate until they have divided.

Relinquishing, therefore, all idle views of amendment to your Grace, or of benefit to the public, let me be permitted to consider your character and conduct merely as a subject of curious speculation.—There is something in both, which distinguishes you not only from all other ministers, but all other men. It is not that you do wrong by design, but that you should never do right by mistake. It is not that your indolence and your activity have been equally misapplied, but that the first uniform principle, or, if I may so call it, the genius of your life, should have carried you through every possible change and contradiction of conduct, without the momentary imputation or colour of a virtue; and that the wildest spirit of inconsistency should never once have betrayed you into a wise or honourable action. This, I own, gives an air of singularity to your fortune, as well as to your disposition. Let us look back together to a scene, in which a mind like yours will find nothing to repent of. Let us try, my Lord, how well you have supported the various relations in which you stood, to your sovereign, your country, your friends, and yourself. Give us, if it be possible, some excuse to posterity, and to ourselves, for submitting to your administration. If not the abilities of a great minister, if not the integrity of a patriot, or the fidelity of a friend, show us, at least, the firmness of a man.—For the

sake of your mistress, the lover shall be spared. I will not lead her into public, as you have done, nor will I insult the memory of departed beauty. Her sex, which alone made her amiable in your eyes, makes her respectable in mine.

The character of the reputed ancestors of some men, has made it possible for their descendants to be vicious in the extreme, without being degenerate. Those of your Grace, for instance, left no distressing examples of virtue, even to their legitimate posterity, and you may look back with pleasure to an illustrious pedigree, in which heraldry has not left a single good quality upon record to insult or upbraid you. You have better proofs of your descent, my Lord, than the register of a marriage, or any troublesome inheritance of reputation. There are some hereditary strokes of character, by which a family may be as clearly distinguished as by the blackest features of the human face. Charles the First lived and died a hypocrite. Charles the Second was a hypocrite of another sort, and should have died upon the same scaffold. At the distance of a century, we see their different characters happily revived, and blended in your Grace. Sullen and severe without religion, profligate without gaiety, you live like Charles the Second, without being an amiable companion, and, for aught I know, may die as his father did, without the reputation of a martyr.

You had already taken your degrees with credit in those schools, in which the English nobility are

formed to virtue, when you were introduced to lord Chatham's protection. From Newmarket, White's, and the Opposition, he gave you to the world with an air of popularity, which young men usually set out with, and seldom preserve:—grave and plausible enough to be thought fit for business, too young for treachery, and, in short, a patriot of no unpromising expectations. Lord Chatham was the earliest object of your political wonder and attachment. Yet you deserted him, upon the first hopes that offered of an equal share of power with lord Rockingham. When the duke of Cumberland's first negotiation failed, and when the favourite was pushed to the last extremity, you saved him, by joining with an administration, in which lord Chatham had refused to engage. Still, however, he was your friend, and you are yet to explain to the world, why you consented to act without him, or why, after uniting with lord Rockingham, you deserted and betrayed him. You complained that no measures were taken to satisfy your patron, and that your friend, Mr Wilkes, who had suffered so much for the party, had been abandoned to his fate. They have since contributed, not a little, to your present plenitude of power; yet, I think, lord Chatham has less reason than ever to be satisfied; and as for Mr Wilkes, it is, perhaps, the greatest misfortune of his life, that you should have so many compensations to make in the closet for your former friendship with him. Your gracious master understands

your character, and makes you a persecutor, because you have been a friend.

Lord Chatham formed his last administration upon principles which you certainly concurred in, or you could never have been placed at the head of the Treasury. By deserting those principles, and by acting in direct contradiction to them, in which he found you were secretly supported in the closet, you soon forced him to leave you to yourself, and to withdraw his name from an administration, which had been formed on the credit of it. You had then a prospect of friendships better suited to your genius, and more likely to fix your disposition. Marriage is the point on which every rake is stationary at last; and truly, my Lord, you may well be weary of the circuit you have taken, for you have now fairly travelled through every sign in the political zodiac, from the Scorpion, in which you stung lord Chatham, to the hopes of a Virgin in the house of Bloomsbury. One would think that you had had sufficient experience of the frailty of nuptial engagements, or, at least, that such a friendship as the duke of Bedford's might have been secured to you by the auspicious marriage of your late duchess with his nephew. But ties of this tender nature cannot be drawn too close; and it may possibly be a part of the duke of Bedford's ambition, after making *her* an honest woman, to work a miracle of the same sort upon your Grace. This worthy nobleman has long dealt in virtue. There has been a large consumption of it in his

own family; and, in the way of traffic, I dare say, he has bought and sold more than half the representative integrity of the nation.

In a political view, this union is not imprudent. The favour of princes is a perishable commodity. You have now a strength sufficient to command the closet; and if it be necessary to betray one friendship more, you may set even lord Bute at defiance. Mr Stuart Mackenzie may possibly remember what use the duke of Bedford usually makes of his power; and our gracious sovereign, I doubt not, rejoices at this first appearance of union among his servants. His late Majesty, under the happy influence of a family connexion between his ministers, was relieved from the cares of government. A more active prince may perhaps observe, with suspicion, by what degrees an artful servant grows upon his master, from the first unlimited professions of duty and attachment, to the painful representation of the necessity of the royal service, and soon, in regular progression, to the humble insolence of dictating in all the obsequious forms of peremptory submission. The interval is carefully employed in forming connexions, creating interests, collecting a party, and laying the foundation of double marriages; until the deluded prince, who thought he had found a creature prostituted to his service, and insignificant enough to be always dependent upon his pleasure, finds him at last too strong to be commanded, and too formidable to be removed.

Your Grace's public conduct, as a minister, is but the counterpart of your private history;—the same inconsistency, the same contradictions. In America we trace you, from the first opposition to the Stamp Act, on principles of convenience, to Mr Pitt's surrender of the right; then forward to lord Rockingham's surrender of the fact; then back again to lord Rockingham's declaration of the right; then forward to taxation with Mr Townshend; and in the last instance, from the gentle Conway's undetermined discretion, to blood and compulsion with the duke of Bedford: Yet if we may believe the simplicity of lord North's eloquence, at the opening of next sessions you are once more to be the patron of America. Is this the wisdom of a great minister? or is it the ominous vibration of a pendulum? Had you no opinion of your own, my Lord? or was it the gratification of betraying every party with which you have been united, and of deserting every political principle in which you had concurred?

Your enemies may turn their eyes without regret from this admirable system of provincial government. They will find gratification enough in the survey of your domestic and foreign policy.

If, instead of disowning lord Shelburne, the British court had interposed with dignity and firmness, you know, my Lord, that Corsica would never have been invaded. The French saw the weakness of a distracted ministry, and were justified in treating you with contempt. They

would probably have yielded in the first instance, rather than hazard a rupture with this country; but, being once engaged, they cannot retreat without dishonour. Common sense foresees consequences which have escaped your Grace's penetration. Either we suffer the French to make an acquisition, the importance of which you have probably no conception of, or we oppose them by an underhand management, which only disgraces us in the eyes of Europe, without answering any purpose of policy or prudence. From secret, indirect assistance, a transition to some more open decisive measures becomes unavoidable; till at last we find ourselves principals in the war, and are obliged to hazard every thing for an object which might have originally been obtained without expense or danger. I am not versed in the politics of the north; but this I believe is certain, that half the money you have distributed to carry the expulsion of Mr Wilkes, or even your secretary's share in the last subscription, would have kept the Turks at your devotion. Was it economy, my Lord? or did the coy resistance you have constantly met with in the British senate, make you despair of corrupting the Divan? Your friends indeed have the first claim upon your bounty, but if five hundred pounds a year can be spared in pension to sir John Moore, it would not have disgraced you to have allowed something to the secret service of the public.

You will say perhaps that the situation of affairs

at home demanded and engrossed the whole of your attention. Here, I confess, you have been active. An amiable, accomplished Prince ascends the throne under the happiest of all auspices, the acclamations and united affections of his subjects. The first measures of his reign, and even the odium of a favourite, were not able to shake their attachment. *Your* services, my Lord, have been more successful. Since you were permitted to take the lead, we have seen the natural effects of a system of government at once both odious and contemptible. We have seen the laws sometimes scandalously relaxed, sometimes violently stretched beyond their tone. We have seen the sacred person of the sovereign insulted; and in profound peace, and with an undisputed title, the fidelity of his subjects brought by his own servants into public question. Without abilities, resolution, or interest, you have done more than lord Bute could accomplish, with all Scotland at his heels.

Your Grace, little anxious perhaps either for present or future reputation, will not desire to be handed down in these colours to posterity. You have reason to flatter yourself that the memory of your administration will survive even the forms of a constitution, which our ancestors vainly hoped would be immortal; and as for your personal character, I will not, for the honour of human nature, suppose that you can wish to have it remembered. The condition of the present times is desperate indeed; but there is a debt due to

those who come after us, and it is the historian's office to punish, though he cannot correct. I do not give you to posterity as a pattern to imitate, but as an example to deter; and as your conduct comprehends every thing that a wise or honest minister should avoid, I mean to make you a negative instruction to your successors for ever.

JUNIUS.

TO HIS GRACE THE DUKE OF GRAFTON

8th July 1769.

MY LORD,—If nature had given you an understanding qualified to keep pace with the wishes and principles of your heart, she would have made you, perhaps, the most formidable minister that ever was employed, under a limited monarch, to accomplish the ruin of a free people. When neither the feelings of shame, the reproaches of conscience, nor the dread of punishment, form any bar to the designs of a minister, the people would have too much reason to lament their condition, if they did not find some resource in the weakness of his understanding. We owe it to the bounty of providence, that the completest depravity of the heart is sometimes strangely united with a confusion of the mind, which counteracts the most favourite principles, and makes the same man treacherous without art, and a hypocrite without deceiving. The measures, for instance, in which your Grace's activity has been chiefly exerted, as they were adopted without skill, should have been conducted with more than common dexterity. But truly, my Lord, the execution has been as gross as the design. By one decisive step, you have defeated all the

arts of writing. You have fairly confounded the intrigues of opposition, and silenced the clamours of faction. A dark, ambiguous system, might require and furnish the materials of ingenious illustration; and, in doubtful measures, the virulent exaggeration of party must be employed, to rouse and engage the passions of the people. You have now brought the merits of your administration to an issue, on which every Englishman, of the narrowest capacity, may determine for himself. It is not an alarm to the passions, but a calm appeal to the judgment of the people, upon their own most essential interests. A more experienced minister would not have hazarded a direct invasion of the first principles of the constitution, before he had made some progress in subduing the spirit of the people. With such a cause as yours, my Lord, it is not sufficient that you have the court at your devotion, unless you can find means to corrupt or intimidate the jury. The collective body of the people form that jury, and from *their* decision there is but one appeal.

Whether you have talents to support you, at a crisis of such difficulty and danger, should long since have been considered. Judging truly of your disposition, you have perhaps mistaken the extent of your capacity. Good faith and folly have so long been received for synonymous terms, that the reverse of the proposition has grown into credit, and every villain fancies himself a man of abilities. It is the apprehension of your friends,

my Lord, that you have drawn some hasty conclusion of this sort, and that a partial reliance upon your moral character has betrayed you beyond the depth of your understanding. You have now carried things too far to retreat. You have plainly declared to the people what they are to expect from the continuance of your administration. It is time for your Grace to consider what you also may expect in return from *their* spirit and *their* resentment.

Since the accession of our most gracious sovereign to the throne, we have seen a system of government, which may well be called a reign of experiments. Parties of all denominations have been employed and dismissed. The advice of the ablest men in this country has been repeatedly called for and rejected; and when the Royal displeasure has been signified to a minister, the marks of it have usually been proportioned to his abilities and integrity. The spirit of the FAVOURITE had some apparent influence upon every administration; and every set of ministers preserved an appearance of duration, as long as they submitted to that influence. But there were certain services to be performed for the Favourite's security, or to gratify his resentments, which your predecessors in office had the wisdom or the virtue not to undertake. The moment this refractory spirit was discovered, their disgrace was determined. Lord Chatham, Mr Grenville, and lord Rockingham have successively had the honour to be dismissed, for preferring their

duty as servants of the public, to those compliances which were expected from their station. A submissive administration was at last gradually collected from the deserters of all parties, interests, and connexions: and nothing remained but to find a leader for these gallant well-disciplined troops. Stand forth, my Lord, for thou art the man. Lord Bute found no resource of dependence or security in the proud imposing superiority of lord Chatham's abilities, the shrewd inflexible judgment of Mr Grenville, nor in the mild but determined integrity of lord Rockingham. His views and situation required a creature void of all these properties; and he was forced to go through every division, resolution, composition, and refinement of political chemistry, before he happily arrived at the *caput mortuum* of vitriol in your Grace. Flat and insipid in your retired state, but brought into action, you become vitriol again. Such are the extremes of alternate indolence or fury, which have governed your whole administration. Your circumstances with regard to the people soon becoming desperate, like other honest servants, you determined to involve the best of masters in the same difficulties with yourself. We owe it to your Grace's well-directed labours, that your sovereign has been persuaded to doubt of the affections of his subjects, and the people to suspect the virtues of their sovereign, at a time when both were unquestionable. You have degraded the royal dignity into a base, dishonourable competition

with Mr Wilkes, nor had you abilities to carry even this last contemptible triumph over a private man, without the grossest violation of the fundamental laws of the constitution and rights of the people. But these are rights, my lord, which you can no more annihilate, than you can the soil to which they are annexed. The question no longer turns upon points of national honour and security abroad, or on the degrees of expedience and propriety of measures at home. It was not inconsistent that you should abandon the cause of liberty in another country, which you had persecuted in your own; and in the common arts of domestic corruption, we miss no part of sir Robert Walpole's system except his abilities. In this humble imitative line, you might long have proceeded, safe and contemptible. You might, probably, never have risen to the dignity of being hated, and even have been despised with moderation. But it seems you meant to be distinguished, and, to a mind like yours, there was no other road to fame but by the destruction of a noble fabric, which you thought had been too long the admiration of mankind. The use you have made of the military force introduced an alarming change in the mode of executing the laws. The arbitrary appointment of Mr Luttrell invades the foundation of the laws themselves, as it manifestly transfers the right of legislation from those whom the people have chosen, to those whom they have rejected. With a succession of such appointments, we may soon see a House of Com-

mons collected, in the choice of which the other towns and counties of England will have as little share as the devoted county of Middlesex.

Yet, I trust, your Grace will find that the people of this country are neither to be intimidated by violent measures, nor deceived by refinements. When they see Mr Luttrell seated in the House of Commons by mere dint of power, and in direct opposition to the choice of a whole county, they will not listen to those subtleties, by which every arbitrary exertion of authority is explained into the law and privilege of parliament. It requires no persuasion of argument, but simply the evidence of the senses, to convince them, that to transfer the right of election from the collective to the representative body of the people, contradicts all those ideas of a House of Commons, which they have received from their forefathers, and which they have already, though vainly perhaps, delivered to their children. The principles, on which this violent measure has been defended, have added scorn to injury, and forced us to feel, that we are not only oppressed, but insulted.

With what force, my Lord, with what protection are you prepared to meet the united detestation of the people of England? The city of London has given a generous example to the kingdom, in what manner a king of this country ought to be addressed; and I fancy, my Lord, it is not yet in your courage to stand between your sovereign and the addresses of his subjects. The injuries you

have done this country are such as demand not only redress, but vengeance. In vain shall you look for protection to that venal vote, which you have already paid for—another must be purchased; and to save a minister, the House of Commons must declare themselves not only independent of their constituents, but the determined enemies of the constitution. Consider, my Lord, whether this be an extremity to which their fears will permit them to advance; or, if *their* protection should fail you, how far you are authorized to rely upon the sincerity of those smiles, which a pious court lavishes without reluctance upon a libertine by profession. It is not, indeed, the least of the thousand contradictions which attend you, that a man, marked to the world by the grossest violation of all ceremony and decorum, should be the first servant of a court, in which prayers are morality, and kneeling is religion. Trust not too far to appearances, by which your predecessors have been deceived, though they have not been injured. Even the best of princes may at last discover, that this is a contention, in which everything may be lost, but nothing can be gained; and as you became minister by accident, were adopted without choice, trusted without confidence, and continued without favour, be assured that, whenever an occasion presses, you will be discarded without even the forms of regret. You will then have reason to be thankful, if you are permitted to retire to that seat of learning, which in contemplation of the

system of your life, the comparative purity of your manners with those of their high steward, and a thousand other recommending circumstances, has chosen you to encourage the growing virtue of their youth, and to preside over their education. Whenever the spirit of distributing prebends and bishoprics shall have departed from you, you will find that learned seminary perfectly recovered from the delirium of an installation, and, what in truth it ought to be, once more a peaceful scene of slumber and thoughtless meditation. The venerable tutors of the university will no longer distress your modesty, by proposing you for a pattern to their pupils. The learned dulness of declamation will be silent; and even the venal muse, though happiest in fiction, will forget your virtues. Yet, for the benefit of the succeeding age, I could wish that your retreat might be deferred, until your morals shall happily be ripened to that maturity of corruption, at which the worst examples cease to be contagious.

JUNIUS.

TO HIS GRACE THE DUKE OF BEDFORD

19th September 1769.

MY LORD,—You are so little accustomed to receive any marks of respect or esteem from the public, that if, in the following lines, a compliment or expression of applause should escape me, I fear you would consider it as a mockery of your established character, and perhaps an insult to your understanding. You have nice feelings, my Lord, if we may judge from your resentments. Cautious therefore of giving offence, where you have so little deserved it, I shall leave the illustration of your virtues to other hands. Your friends have a privilege to play upon the easiness of your temper, or possibly they are better acquainted with your good qualities than I am. You have done good by stealth. The rest is upon record. You have still left ample room for speculation, when panegyric is exhausted.

You are indeed a very considerable man. The highest rank; a splendid fortune; and a name, glorious till it was yours, were sufficient to have supported you with meaner abilities than I think you possess. From the first you derived a constitutional claim to respect; from the second, a

natural extensive authority;—the last created a partial expectation of hereditary virtues. The use you have made of these uncommon advantages might have been more honourable to yourself, but could not be more instructive to mankind. We may trace it in the veneration of your country, the choice of your friends, and in the accomplishment of every sanguine hope, which the public might have conceived from the illustrious name of Russell.

The eminence of your station gave you a commanding prospect of your duty. The road which led to honour, was open to your view. You could not lose it by mistake, and you had no temptation to depart from it by design. Compare the natural dignity and importance of the richest peer of England;—the noble independence which he might have maintained in parliament, and the real interest and respect which he might have acquired, not only in parliament, but through the whole kingdom; compare these glorious distinctions with the ambition of holding a share in government, the emoluments of a place, the sale of a borough, or the purchase of a corporation; and though you may not regret the virtues which create respect, you may see with anguish how much real importance and authority you have lost. Consider the character of an independent virtuous duke of Bedford; imagine what he might be in this country, then reflect one moment upon what you are. If it be possible for me to withdraw my attention from

the fact, I will tell you in theory what such a man might be.

Conscious of his own weight and importance, his conduct in parliament would be directed by nothing but the constitutional duty of a peer. He would consider himself as a guardian of the laws. Willing to support the just measures of government, but determined to observe the conduct of the minister with suspicion, he would oppose the violence of faction with as much firmness as the encroachments of prerogative. He would be as little capable of bargaining with the minister for places for himself, or his dependents, as of descending to mix himself in the intrigues of opposition. Whenever an important question called for his opinion in parliament, he would be heard, by the most profligate minister, with deference and respect. His authority would either sanctify or disgrace the measures of government.—The people would look up to him as to their protector, and a virtuous prince would have one honest man in his dominions, in whose integrity and judgment he might safely confide. If it should be the will of Providence to afflict him with a domestic misfortune, he would submit to the stroke with feeling, but not without dignity. He would consider the people as his children, and receive a generous heartfelt consolation, in the sympathizing tears and blessings of his country.

Your Grace may probably discover something more intelligible in the negative part of this

illustrious character. The man I have described would never prostitute his dignity in parliament by an indecent violence either in opposing or defending a minister. He would not at one moment rancorously persecute, at another basely cringe to, the favourite of his sovereign. After outraging the royal dignity with peremptory conditions, little short of menace and hostility, he would never descend to the humility of soliciting an interview with the favourite, and of offering to recover, at any price, the honour of his friendship. Though deceived perhaps in his youth, he would not, through the course of a long life, have invariably chosen his friends from among the most profligate of mankind. His own honour would have forbidden him from mixing his private pleasures or conversation with jockeys, gamesters, blasphemers, gladiators, or buffoons. He would then have never felt, much less would he have submitted to the humiliating, dishonest necessity of engaging in the interest and intrigues of his dependents, of supplying their vices, or relieving their beggary, at the expense of his country. He would not have betrayed such ignorance, or such contempt of the constitution, as openly to avow, in a court of justice, the purchase and sale of a borough. He would not have thought it consistent with his rank in the state, or even with his personal importance, to be the little tyrant of a little corporation. He would never have been insulted with virtues, which he had laboured to extinguish,

nor suffered the disgrace of a mortifying defeat, which has made him ridiculous and contemptible, even to the few by whom he was not detested.—I reverence the afflictions of a good man,—his sorrows are sacred. But how can we take part in the distresses of a man, whom we can neither love nor esteem; or feel for a calamity of which he himself is insensible? Where was the father's heart when he could look for or find an immediate consolation for the loss of an only son, in consultations and bargains for a place at court, and even in the misery of balloting at the India House!

Admitting then that you have mistaken or deserted those honourable principles, which ought to have directed your conduct; admitting that you have as little claim to private affection as to public esteem, let us see with what abilities, with what degree of judgment, you have carried your own system into execution. A great man, in the success and even in the magnitude of his crimes, finds a rescue from contempt. Your Grace is every way unfortunate. Yet I will not look back to those ridiculous scenes, by which in your earlier days you thought it an honour to be distinguished; the recorded stripes, the public infamy, your own sufferings, or Mr Rigby's fortitude. These events undoubtedly left an impression, though not upon your mind. To *such* a mind, it may perhaps be a pleasure to reflect, that there is hardly a corner of any of his Majesty's kingdoms, except France, in which, at one time or other, your valuable life has

not been in danger. Amiable man! we see and acknowledge the protection of Providence, by which you have so often escaped the personal detestation of your fellow-subjects, and are still reserved for the public justice of your country.

Your history begins to be important at that auspicious period at which you were deputed to represent the earl of Bute, at the court of Versailles. It was an honourable office, and executed with the same spirit with which it was accepted. Your patrons wanted an ambassador, who would submit to make concessions, without daring to insist upon any honourable condition for his sovereign. Their business required a man, who had as little feeling for his own dignity as for the welfare of his country; and they found him in the first rank of the nobility. Belleisle, Goree, Guadaloupe, St Lucia, Martinique, the Fishery, and the Havanna, are glorious monuments of your Grace's talents for negotiation. My Lord, we are too well acquainted with your pecuniary character, to think it possible that so many public sacrifices should have been made, without some private compensations. Your conduct carries with it an internal evidence, beyond all the legal proofs of a court of justice. Even the callous pride of lord Egremont was alarmed. He saw and felt his own dishonour in corresponding with you; and there certainly was a moment, at which he meant to have resisted, had not a fatal lethargy prevailed over his faculties, and carried all sense and memory away with it.

I will not pretend to specify the secret terms on which you were invited to support an administration which lord Bute pretended to leave in full possession of their ministerial authority, and perfectly masters of themselves. He was not of a temper to relinquish power, though he retired from employment. Stipulations were certainly made between your Grace and him, and certainly violated. After two years' submission, you thought you had collected a strength sufficient to controul his influence, and that it was your turn to be a tyrant, because you had been a slave. When you found yourself mistaken in your opinion of your gracious Master's firmness, disappointment got the better of all your humble discretion, and carried you to an excess of outrage to his person, as distant from true spirit, as from all decency and respect. After robbing him of the rights of a king, you would not permit him to preserve the honour of a gentleman. It was then lord Weymouth was nominated to Ireland, and despatched (we well remember with what indecent hurry) to plunder the treasury of the first fruits of an employment which you well knew he was never to execute.

This sudden declaration of war against the favourite might have given you a momentary merit with the public, if it had either been adopted upon principle, or maintained with resolution. Without looking back to all your former servility, we need only observe your subsequent conduct, to see upon what motives you acted. Apparently

united with Mr Grenville, you waited until lord Rockingham's feeble administration should dissolve in its own weakness.—The moment their dismissal was suspected, the moment you perceived that another system was adopted in the closet, you thought it no disgrace to return to your former dependence, and solicit once more the friendship of lord Bute. You begged an interview, at which he had spirit enough to treat you with contempt.

It would now be of little use to point out, by what a train of weak, injudicious measures it became necessary, or was thought so, to call you back to a share in the administration. The friends, whom you did not in the last instance desert, were not of a character to add strength or credit to government; and at that time your alliance with the duke of Grafton was, I presume, hardly foreseen. We must look for other stipulations, to account for that sudden resolution of the closet, by which three of your dependents (whose characters, I think, cannot be less respected than they are) were advanced to offices, through which you might again controul the minister, and probably engross the whole direction of affairs.

The possession of absolute power is now once more within your reach. The measures you have taken to obtain and confirm it, are too gross to escape the eyes of a discerning judicious prince. His palace is besieged; the lines of circumvallation are drawing round him; and unless he finds a

resource in his own activity, or in the attachment of the real friends of his family, the best of princes must submit to the confinement of a state prisoner, until your Grace's death, or some less fortunate event, shall raise the siege. For the present, you may safely resume that style of insult and menace, which even a private gentleman cannot submit to hear without being contemptible. Mr Mackenzie's history is not yet forgotten, and you may find precedents enough of the mode, in which an imperious subject may signify his pleasure to his sovereign. Where will this gracious monarch look for assistance, when the wretched Grafton could forget his obligations to his master, and desert him for a hollow alliance with *such* a man as the duke of Bedford!

Let us consider you, then, as arrived at the summit of worldly greatness; let us suppose, that all your plans of avarice and ambition are accomplished, and your most sanguine wishes gratified in the fear as well as the hatred of the people: Can age itself forget that you are now in the last act of life? Can grey hairs make folly venerable? and is there no period to be reserved for meditation and retirement? For shame! my Lord: let it not be recorded of you, that the latest moments of your life were dedicated to the same unworthy pursuits, the same busy agitations, in which your youth and manhood were exhausted. Consider, that, although you cannot disgrace your former life, you are violating the character of age, and exposing

the impotent imbecility, after you have lost the vigour of the passions.

Your friends will ask, perhaps, Whither shall this unhappy old man retire? Can he remain in the metropolis, where his life has been so often threatened, and his palace so often attacked? If he returns to Wooburn, scorn and mockery await him. He must create a solitude around his estate, if he would avoid the face of reproach and derision. At Plymouth, his destruction would be more than probable; at Exeter, inevitable. No honest Englishman will ever forget his attachment, nor any honest Scotchman forgive his treachery, to lord Bute. At every town he enters, he must change his liveries and his name. Which ever way he flies, the *Hue and Cry* of the country pursues him.

In another kingdom, indeed, the blessings of his administration have been more sensibly felt; his virtues better understood; or at worst, they will not, for him alone, forget their hospitality.—As well might VERRES have returned to Sicily. You have twice escaped, my Lord; beware of a third experiment. The indignation of a whole people, plundered, insulted, and oppressed as they have been, will not always be disappointed.

It is in vain therefore to shift the scene. You can no more fly from your enemies than from yourself. Persecuted abroad, you look into your own heart for consolation, and find nothing but reproaches and despair. But, my Lord, you may

quit the field of business, though not the field of danger; and though you cannot be safe, you may cease to be ridiculous. I fear you have listened too long to the advice of those pernicious friends, with whose interests you have sordidly united your own, and for whom you have sacrificed every thing that ought to be dear to a man of honour. They are still base enough to encourage the follies of your age, as they once did the vices of your youth. As little acquainted with the rules of decorum, as with the laws of morality, they will not suffer you to profit by experience, nor even to consult the propriety of a bad character. Even now they tell you, that life is no more than a dramatic scene, in which the hero should preserve his consistency to the last, and that as you lived without virtue, you should die without repentance.

JUNIUS.

TO THE PRINTER OF THE "PUBLIC ADVERTISER"

13th October 1769.

SIR,—If sir William Draper's bed be a bed of torture, he has made it for himself. I shall never interrupt his repose. Having changed the subject, there are parts of his last letter not undeserving of a reply. Leaving his private character and conduct out of the question, I shall consider him merely in the capacity of an author, whose labours certainly do no discredit to a newspaper.

We say, in common discourse, that a man may be his own enemy, and the frequency of the fact makes the expression intelligible. But that a man should be the bitterest enemy of his friends, implies a contradiction of a peculiar nature! There is something in it which cannot be conceived without a confusion of ideas, nor expressed without a solecism in language. Sir William Draper is still that fatal friend lord Granby found him. Yet I am ready to do justice to his generosity; if indeed it be not something more than generous, to be the voluntary advocate of men, who think themselves injured by his assistance, and to consider nothing in the cause he adopts, but the difficulty of defending it. I thought however he had been better

read in the history of the human heart, than to compare or confound the tortures of the body with those of the mind. He ought to have known, though perhaps it might not be his interest to confess, that no outward tyranny can reach the mind. If conscience plays the tyrant, it would be greatly for the benefit of the world that she were more arbitrary, and far less placable, than some men find her.

But it seems I have outraged the feelings of a father's heart.—Am I indeed so injudicious? Does sir William Draper think I would have hazarded my credit with a generous nation, by so gross a violation of the laws of humanity? Does he think I am so little acquainted with the first and noblest characteristic of Englishmen? Or how will he reconcile such folly with an understanding so full of artifice as mine? Had *he* been a father, he would have been but little offended with the severity of the reproach, for his mind would have been filled with the justice of it. He would have seen that I did not insult the feelings of a father, but the father who felt nothing. He would have trusted to the evidence of his own paternal heart, and boldly denied the possibility of the fact, instead of defending it. Against whom then will his honest indignation be directed, when I assure him, that this whole town beheld the duke of Bedford's conduct, upon the death of his son, with horror and astonishment. Sir William Draper does himself but little honour in opposing the general

sense of his country. The people are seldom wrong in their opinions;—in their sentiments they are never mistaken. There may be a vanity perhaps in a singular way of thinking;—but when a man professes a want of those feelings, which do honour to the multitude, he hazards something infinitely more important than the character of his understanding. After all, as sir William may possibly be in earnest in his anxiety for the duke of Bedford, I should be glad to relieve him from it. He may rest assured that this worthy nobleman laughs, with equal indifference, at *my* reproaches, and sir William's distress about him. But here let it stop. Even the duke of Bedford, insensible as he is, will consult the tranquillity of his life, in not provoking the moderation of my temper. If, from the profoundest contempt, I should ever rise into anger, he should soon find, that all I have already said of him was lenity and compassion.

Out of a long catalogue, sir William Draper has confined himself to the refutation of two charges only. The rest he had not time to discuss; and indeed it would have been a laborious undertaking. To draw up a defence of such a series of enormities, would have required a life at least as long as that which has been uniformly employed in the practice of them. The public opinion of the duke of Bedford's extreme economy is, it seems, entirely without foundation. Though not very prodigal abroad, in his own family, at least, he is regular and magnificent. He pays his debts, abhors a

beggar, and makes a handsome provision for his son. His charity has improved upon the proverb, and ended where it began. Admitting the whole force of this single instance of his domestic generosity (wonderful indeed, considering the narrowness of his fortune, and the little merit of his only son), the public may still perhaps be dissatisfied, and demand some other less equivocal proofs of his munificence. Sir William Draper should have entered boldly into the detail—of indigence relieved—of arts encouraged—of science patronized; men of learning protected, and works of genius rewarded; in short, had there been a single instance, besides Mr Rigby, of blushing merit brought forward by the duke, for the service of the public, it should not have been omitted.

I wish it were possible to establish my inference with the same certainty, on which I believe the principle is founded. My conclusion however was not drawn from the principle alone. I am not so unjust as to reason from one crime to another; though I think, that, of all the vices, avarice is most apt to taint and corrupt the heart. I combined the known temper of the man, with the extravagant concessions made by the ambassador; and though I doubt not sufficient care was taken to leave no document of any treasonable negotiation, I still maintain that the conduct of this minister carries with it an internal and a convincing evidence against him. Sir William Draper seems not to know the value or force of such a proof. He

will not permit us to judge of the motives of men, by the manifest tendency of their actions, nor by the notorious character of their minds. He calls for papers and witnesses, with a sort of triumphant security, as if nothing could be true but what could be proved in a court of justice. Yet a religious man might have remembered, upon what foundation some truths, most interesting to mankind, have been received and established. If it were not for the internal evidence, which the purest of religions carries with it, what would have become of his once well-quoted decalogue, and of the meekness of his Christianity?

The generous warmth of his resentment makes him confound the order of events. He forgets that the insults and distresses which the duke of Bedford has suffered, and which sir William has lamented with many delicate touches of the true pathetic, were only recorded in my letter to his Grace, not occasioned by it. It was a simple, candid narrative of facts; though, for aught I know, it may carry with it something prophetic. His Grace undoubtedly has received several ominous hints; and I think, in certain circumstances, a wise man would do well to prepare himself for the event.

But I have a charge of a heavier nature against sir William Draper. He tells us that the duke of Bedford is amenable to justice;—that parliament is a high and solemn tribunal; and that, if guilty, he may be punished by due course of law; and all

this, he says, with as much gravity as if he believed every word of the matter. I hope, indeed, the day of impeachments will arrive before this nobleman escapes out of life;—but to refer us to that mode of proceeding now, with such a ministry, and such a House of Commons as the present, what is it, but an indecent mockery of the common sense of the nation? I think he might have contented himself with defending the greatest enemy, without insulting the distresses of his country.

His concluding declaration of his opinion, with respect to the present condition of affairs, is too loose and undetermined to be of any service to the public. How strange it is that this gentleman should dedicate so much time and argument to the defence of worthless or indifferent characters, while he gives but seven solitary lines to the only subject, which can deserve his attention, or do credit to his abilities.

JUNIUS.

FOR THE "PUBLIC ADVERTISER"

19th December 1769.

When the complaints of a brave and powerful people are observed to increase in proportion to the wrongs they have suffered; when, instead of sinking into submission, they are roused to resistance, the time will soon arrive at which every inferior consideration must yield to the security of the sovereign, and to the general safety of the state. There is a moment of difficulty and danger, at which flattery and falsehood can no longer deceive, and simplicity itself can no longer be misled. Let us suppose it arrived. Let us suppose a gracious, well-intentioned Prince, made sensible at last of the great duty he owes to his people, and of his own disgraceful situation; that he looks round him for assistance, and asks for no advice, but how to gratify the wishes and secure the happiness of his subjects. In these circumstances, it may be matter of curious SPECULATION to consider, if an honest man were permitted to approach a king, in what terms he would address himself to his sovereign. Let it be imagined, no matter how improbable, that the first prejudice against his character is removed, that the ceremonious

difficulties of an audience are surmounted, that he feels himself animated by the purest and most honourable affections to his king and country, and that the great person, whom he addresses, has spirit enough to bid him speak freely, and understanding enough to listen to him with attention. Unacquainted with the vain impertinence of forms, he would deliver his sentiments with dignity and firmness, but not without respect.

SIR,—It is the misfortune of your life, and originally the cause of every reproach and distress which has attended your government, that you should never have been acquainted with the language of truth, until you heard it in the complaints of your people. It is not, however, too late to correct the error of your education. We are still inclined to make an indulgent allowance for the pernicious lessons you received in your youth, and to form the most sanguine hopes from the natural benevolence of your disposition. We are far from thinking you capable of a direct, deliberate purpose to invade those original rights of your subjects, on which all their civil and political liberties depend. Had it been possible for us to entertain a suspicion so dishonourable to your character, we should long since have adopted a style of remonstrance very distant from the humility of complaint. The doctrine inculcated by our laws, *That the King can do no wrong*, is admitted without reluctance. We separate the

amiable, good-natured prince from the folly and treachery of his servants, and the private virtues of the man from the vices of his government. Were it not for this just distinction, I know not whether your Majesty's condition, or that of the English nation, would deserve most to be lamented. I would prepare your mind for a favourable reception of truth, by removing every painful, offensive idea of personal reproach. Your subjects, Sir, wish for nothing but that, as *they* are reasonable and affectionate enough to separate your person from your government, so *you*, in your turn, should distinguish between the conduct which becomes the permanent dignity of a king, and that which serves only to promote the temporary interest and miserable ambition of a minister.

You ascended the throne with a declared, and, I doubt not, a sincere resolution of giving universal satisfaction to your subjects. You found them pleased with the novelty of a young prince, whose countenance promised even more than his words, and loyal to you not only from principle, but passion. It was not a cold profession of allegiance to the first magistrate, but a partial, animated attachment to a favourite prince, the native of their country. They did not wait to examine your conduct, nor to be determined by experience, but gave you a generous credit for the future blessings of your reign, and paid you in advance the dearest tribute of their affections. Such, Sir, was once the disposition of the people, who now surround your

throne with reproaches and complaints. Do justice to yourself. Banish from your mind those unworthy opinions, with which some interested persons have laboured to possess you. Distrust the men, who tell you that the English are naturally light and inconstant;—that they complain without a cause. Withdraw your confidence equally from all parties, from ministers, favourites, and relations; and let there be one moment in your life, in which you have consulted your own understanding.

When you affectedly renounced the name of Englishman, believe me, Sir, you were persuaded to pay a very ill-judged compliment to one part of your subjects, at the expense of another. While the natives of Scotland are not in actual rebellion, they are undoubtedly entitled to protection; nor do I mean to condemn the policy of giving some encouragement to the novelty of their affections for the house of Hanover. I am ready to hope for every thing from their new-born zeal, and from the future steadiness of their allegiance. But hitherto they have no claim to your favour. To honour them with a determined predilection and confidence, in exclusion of your English subjects, who placed your family, and, in spite of treachery and rebellion, have supported it upon the throne, is a mistake too gross, even for the unsuspecting generosity of youth. In this error we see a capital violation of the most obvious rules of policy and prudence. We trace it, however, to an original

bias in your education, and are ready to allow for your inexperience.

To the same early influence we attribute it, that you have descended to take a share not only in the narrow views and interests of particular persons, but in the fatal malignity of their passions. At your accession to the throne, the whole system of government was altered, not from wisdom or deliberation, but because it had been adopted by your predecessor. A little personal motive of pique and resentment was sufficient to remove the ablest servants of the crown; but it is not in this country, Sir, that such men can be dishonoured by the frowns of a king. They were dismissed, but could not be disgraced. Without entering into a minuter discussion of the merits of the peace, we may observe, in the imprudent hurry with which the first overtures from France were accepted, in the conduct of the negotiation, and terms of the treaty, the strongest marks of that precipitate spirit of concession, with which a certain part of your subjects have been at all times ready to purchase a peace with the natural enemies of this country. On *your* part we are satisfied that everything was honourable and sincere, and if England was sold to France, we doubt not that your Majesty was equally betrayed. The conditions of the peace were matter of grief and surprise to your subjects, but not the immediate cause of their present discontent.

Hitherto, Sir, you had been sacrificed to the

prejudices and passions of others. With what firmness will you bear the mention of your own?

A man, not very honourably distinguished in the world, commences a formal attack upon your favourite, considering nothing, but how he might best expose his person and principles to detestation, and the national character of his countrymen to contempt. The natives of that country, Sir, are as much distinguished by a peculiar character, as by your Majesty's favour. Like another chosen people, they have been conducted into the land of plenty, where they find themselves effectually marked, and divided from mankind. There is hardly a period, at which the most irregular character may not be redeemed. The mistakes of one sex find a retreat in patriotism; those of the other, in devotion. Mr Wilkes brought with him into politics the same liberal sentiments, by which his private conduct had been directed, and seemed to think, that, as there are few excesses in which an English gentleman may not be permitted to indulge, the same latitude was allowed him in the choice of his political principles, and in the spirit of maintaining them.—I mean to state, not entirely to defend his conduct. In the earnestness of his zeal, he suffered some unwarrantable insinuations to escape him. He said more than moderate men would justify; but not enough to entitle him to the honour of your Majesty's personal resentment. The rays of royal indignation, collected upon him, served only to illuminate, and

could not consume. Animated by the favour of the people on one side, and heated by persecution on the other, his views and sentiments changed with his situation. Hardly serious at first, he is now an enthusiast. The coldest bodies warm with opposition, the hardest sparkle in collision. There is a holy mistaken zeal in politics as well as in religion. By persuading others, we convince ourselves. The passions are engaged, and create a maternal affection in the mind, which forces us to love the cause for which we suffer.—Is this a contention worthy of a king? Are you not sensible how much the meanness of the cause gives an air of ridicule to the serious difficulties into which you have been betrayed? the destruction of one man has been now, for many years, the sole object of your government; and if there can be any thing still more disgraceful, we have seen, for such an object, the utmost influence of the executive power, and every ministerial artifice, exerted without success. Nor can you ever succeed, unless *he* should be imprudent enough to forfeit the protection of those laws to which you owe your crown, or unless your ministers should persuade you to make it a question of force alone, and try the whole strength of government in opposition to the people. The lessons *he* has received from experience, will probably guard him from such excess of folly; and in your Majesty's virtues we find an unquestionable assurance that no illegal violence will be attempted.

Far from suspecting you of so horrible a design, we would attribute the continued violation of the laws, and even this last enormous attack upon the vital principles of the constitution, to an ill-advised, unworthy, personal resentment. From one false step you have been betrayed into another, and as the cause was unworthy of you, your ministers were determined that the prudence of the execution should correspond with the wisdom and dignity of the design. They have reduced you to the necessity of chusing out of a variety of difficulties;—to a situation so unhappy, that you can neither do wrong without ruin, nor right without affliction. These worthy servants have undoubtedly given you many singular proofs of their abilities. Not contented with making Mr Wilkes a man of importance, they have judiciously transferred the question, from the rights and interests of one man, to the most important rights and interests of the people, and forced your subjects, from wishing well to the cause of an individual, to unite with him in their own. Let them proceed as they have begun, and your Majesty need not doubt that the catastrophe will do no dishonour to the conduct of the piece.

The circumstances to which you are reduced, will not admit of a compromise with the English nation. Undecisive, qualifying measures will disgrace your government still more than open violence, and, without satisfying the people, will excite their contempt. They have too much

understanding and spirit to accept of an indirect satisfaction for a direct injury. Nothing less than a repeal, as formal as the resolution itself, can heal the wound, which has been given to the constitution, nor will any thing less be accepted. I can readily believe that there is an influence sufficient to recall that pernicious vote. The House of Commons undoubtedly consider their duty to the crown as paramount to all other obligations. To *us* they are only indebted for an accidental existence, and have justly transferred their gratitude from their parents to their benefactors;—from those who gave them birth, to the minister, from whose benevolence they derive the comforts and pleasures of their political life;—who has taken the tenderest care of their infancy, and relieves their necessities without offending their delicacy. But, if it were possible for their integrity to be degraded to a condition so vile and abject, that, compared with it, the present estimation they stand in is a state of honour and respect, consider, Sir, in what manner you will afterwards proceed. Can you conceive that the people of this country will long submit to be governed by so flexible a House of Commons! It is not in the nature of human society, that any form of government, in such circumstances, can long be preserved. In ours, the general contempt of the people is as fatal as their detestation. Such, I am persuaded, would be the necessary effect of any base concession made by the present House of Commons, and, as a

qualifying measure would not be accepted, it remains for you to decide whether you will, at any hazard, support a set of men, who have reduced you to this unhappy dilemma, or whether you will gratify the united wishes of the whole people of England, by dissolving the parliament.

Taking it for granted, as I do very sincerely, that you have personally no design against the constitution, nor any views inconsistent with the good of your subjects, I think you cannot hesitate long upon the choice, which it equally concerns your interest and your honour to adopt. On one side, you hazard the affections of all your English subjects; you relinquish every hope of repose to yourself, and you endanger the establishment of your family for ever. All this you venture for no object whatsoever, or for such an object, as it would be an affront to you to name. Men of sense will examine your conduct with suspicion; while those who are incapable of comprehending to what degree they are injured, afflict you with clamours equally insolent and unmeaning. Supposing it possible that no fatal struggle should ensue, you determine at once to be unhappy, without the hope of a compensation either from interest or ambition. If an English king be hated or despised, he *must* be unhappy; and this perhaps is the only political truth, which he ought to be convinced of without experiment. But if the English people should no longer confine their resentment to a submissive representation of their wrongs; if,

following the glorious example of their ancestors, they should no longer appeal to the creature of the constitution, but to that high Being, who gave them the rights of humanity, whose gifts it were sacrilege to surrender, let me ask you, Sir, upon what part of your subjects would you rely for assistance?

The people of Ireland have been uniformly plundered and oppressed. In return, they give you every day fresh marks of their resentment. They despise the miserable governor you have sent them, because he is the creature of lord Bute; nor is it from any natural confusion in their ideas, that they are so ready to confound the original of a king with the disgraceful representation of him.

The distance of the colonies would make it impossible for them to take an active concern in your affairs, if they were as well affected to your government as they once pretended to be to your person. They were ready enough to distinguish between *you* and your ministers. They complained of an act of the legislature, but traced the origin of it no higher than to the servants of the crown: They pleased themselves with the hope that their sovereign, if not favourable to their cause, at least was impartial. The decisive, personal part you took against them, has effectually banished that first distinction from their minds. They consider you as united with your servants against America, and know how to distinguish the sovereign and a venal parliament on one side, from the real senti-

ments of the English people on the other. Looking forward to independence, they might possibly receive you for their king; but, if ever you retire to America, be assured they will give you such a covenant to digest, as the presbytery of Scotland would have been ashamed to offer to Charles the Second. They left their native land in search of freedom, and found it in a desert. Divided as they are into a thousand forms of policy and religion, there is one point in which they all agree:—they equally detest the pageantry of a king, and the supercilious hypocrisy of a bishop.

It is not then from the alienated affections of Ireland or America, that you can reasonably look for assistance; still less from the people of England, who are actually contending for their rights, and in this great question, are parties against you. You are not, however, destitute of every appearance of support: You have all the Jacobites, Nonjurors, Roman Catholics, and Tories of this country, and all Scotland without exception. Considering from what family you are descended, the choice of your friends has been singularly directed; and truly, Sir, if you had not lost the Whig interest of England, I should admire your dexterity in turning the hearts of your enemies. Is it possible for you to place any confidence in men, who, before they are faithful to you, must renounce every opinion, and betray every principle, both in church and state, which they inherit from their ancestors, and are confirmed in by their education? whose numbers

are so inconsiderable, that they have long since been obliged to give up the principles and language which distinguish them as a party, and to fight under the banners of their enemies? Their zeal begins with hypocrisy, and must conclude in treachery. At first they deceive; at last they betray.

As to the Scotch, I must suppose your heart and understanding so biassed, from your earliest infancy, in their favour, that nothing less than *your own* misfortunes can undeceive you. You will not accept of the uniform experience of your ancestors; and when once a man is determined to believe, the very absurdity of the doctrine confirms him in his faith. A bigoted understanding can draw a proof of attachment to the house of Hanover from a notorious zeal for the house of Stuart, and find an earnest of future loyalty in former rebellions. Appearances are however in their favour: so strongly indeed, that one would think they had forgotten that you are their lawful king, and had mistaken you for a pretender to the crown. Let it be admitted then that the Scotch are as sincere in their present professions, as if you were in reality not an Englishman, but a Briton of the North. You would not be the first prince, of their native country, against whom they have rebelled, nor the first whom they have basely betrayed. Have you forgotten, Sir, or has your favourite concealed from you, that part of our history, when the unhappy Charles (and he too had private virtues) fled

from the open, avowed indignation of his English subjects, and surrendered himself at discretion to the good faith of his own countrymen. Without looking for support in their affections as subjects, he applied only to their honour as gentlemen, for protection. They received him as they would your Majesty, with bows, and smiles, and falsehood, and kept him until they had settled their bargain with the English parliament; then basely sold their native king to the vengeance of his enemies. This, Sir, was not the act of a few traitors, but the deliberate treachery of a Scotch parliament, representing the nation. A wise prince might draw from it two lessons of equal utility to himself. On one side he might learn to dread the undisguised resentment of a generous people, who dare openly assert their rights, and who, in a just cause, are ready to meet their sovereign in the field. On the other side, he would be taught to apprehend something far more formidable;—a fawning treachery, against which no prudence can guard, no courage can defend. The insidious smile upon the cheek would warn him of the canker in the heart.

From the uses to which one part of the army has been too frequently applied, you have some reason to expect, that there are no services they would refuse. Here too we trace the partiality of your understanding. You take the sense of the army from the conduct of the guards, with the same justice with which you collect the sense of

the people from the representations of the ministry. Your marching regiments, Sir, will not make the guards their example either as soldiers or subjects. They feel and resent, as they ought to do, that invariable, undistinguishing favour with which the guards are treated; while those gallant troops, by whom every hazardous, every laborious service is performed, are left to perish in garrisons abroad, or pine in quarters at home, neglected and forgotten. If they had no sense of the great original duty they owe their country, their resentment would operate like patriotism, and leave your cause to be defended by those to whom you have lavished the rewards and honours of their profession. The Prætorian bands, enervated and debauched as they were, had still strength enough to awe the Roman populace: but when the distant legions took the alarm, they marched to Rome, and gave away the empire.

On this side then, whichever way you turn your eyes, you see nothing but perplexity and distress. You may determine to support the very ministry who have reduced your affairs to this deplorable situation: you may shelter yourself under the forms of a parliament, and set your people at defiance. But be assured, Sir, that such a resolution would be as imprudent as it would be odious. If it did not immediately shake your establishment, it would rob you of your peace of mind for ever.

On the other, how different is the prospect! How easy, how safe and honourable is the path

before you! The English nation declare they are grossly injured by their representatives, and solicit your Majesty to exert your lawful prerogative, and give them an opportunity of recalling a trust, which, they find, has been scandalously abused. You are not to be told that the power of the House of Commons is not original, but delegated to them for the welfare of the people, from whom they received it. A question of right arises between the constituent and the representative body. By what authority shall it be decided? Will your Majesty interfere in a question in which you have properly no immediate concern?—It would be a step equally odious and unnecessary. Shall the Lords be called upon to determine the rights and privileges of the Commons?—They cannot do it without a flagrant breach of the constitution. Or will you refer it to the judges?—They have often told your ancestors, that the law of parliament is above them. What party then remains, but to leave it to the people to determine for themselves? They alone are injured; and since there is no superior power, to which the cause can be referred, they alone ought to determine.

I do not mean to perplex you with a tedious argument upon a subject already so discussed that inspiration could hardly throw a new light upon it. There are, however, two points of view, in which it particularly imports your Majesty to consider the late proceedings of the House of Commons. By depriving a subject of his birthright, they have

attributed to their own vote an authority equal to an act of the whole legislature; and, though perhaps not with the same motives, have strictly followed the example of the long parliament, which first declared the regal office useless, and soon after, with as little ceremony, dissolved the House of Lords. The same pretended power, which robs an English subject of his birthright, may rob an English king of his crown. In another view, the resolution of the House of Commons, apparently not so dangerous to your Majesty, is still more alarming to your people. Not contented with divesting one man of his right, they have arbitrarily conveyed that right to another. They have set aside a return as illegal, without daring to censure those officers, who were particularly apprized of Mr Wilkes's incapacity not only by the declaration of the House, but expressly by the writ directed to them, and who nevertheless returned him as duly elected. They have rejected the majority of votes, the only criterion by which our laws judge of the sense of the people; they have transferred the right of election from the collective to the representative body; and by these acts, taken separately or together, they have essentially altered the original constitution of the House of Commons. Versed, as your Majesty undoubtedly is, in the English history, it cannot easily escape you, how much it is your interest, as well as your duty, to prevent one of the three estates from encroaching upon the province of the

other two, or assuming the authority of them all. When once they have departed from the great constitutional line, by which all their proceedings should be directed, who will answer for their future moderation? Or what assurance will they give you, that, when they have trampled upon their equals, they will submit to a superior? Your Majesty may learn hereafter, how nearly the slave and tyrant are allied.

Some of your council, more candid than the rest, admit the abandoned profligacy of the present House of Commons, but oppose their dissolution upon an opinion, I confess not very unwarrantable, that their successors would be equally at the disposal of the Treasury. I cannot persuade myself that the nation will have profited so little by experience. But if that opinion were well founded, you might then gratify our wishes at an easy rate, and appease the present clamour against your government, without offering any material injury to the favourite cause of corruption.

You have still an honourable part to act. The affections of your subjects may still be recovered. But before you subdue *their* hearts, you must gain a noble victory over your own. Discard those little, personal resentments, which have too long directed your public conduct. Pardon this man the remainder of his punishment; and if resentment still prevails, make it, what it should have been long since, an act, not of mercy, but contempt. He will soon fall back into his natural station,—a

silent senator, and hardly supporting the weekly eloquence of a newspaper. The gentle breath of peace would leave him on the surface, neglected and unremoved. It is only the tempest, that lifts him from his place.

Without consulting your minister, call together your whole council. Let it appear to the public that you can determine and act for yourself. Come forward to your people. Lay aside the wretched formalities of a king, and speak to your subjects with the spirit of a man, and in the language of a gentleman. Tell them you have been fatally deceived. The acknowledgment will be no disgrace, but rather an honour to your understanding. Tell them you are determined to remove every cause of complaint against your government; that you will give your confidence to no man, who does not possess the confidence of your subjects; and leave it to themselves to determine, by their conduct at a future election, whether or no it be in reality the general sense of the nation, that their rights have been arbitrarily invaded by the present House of Commons, and the constitution betrayed. They will then do justice to their representatives and to themselves.

These sentiments, Sir, and the style they are conveyed in, may be offensive, perhaps, because they are new to you. Accustomed to the language of courtiers, you measure their affections by the vehemence of their expressions; and, when they only praise you indirectly, you admire their

sincerity. But this is not a time to trifle with your fortune. They deceive you, Sir, who tell you that you have many friends, whose affections are founded upon a principle of personal attachment. The first foundation of friendship is not the power of conferring benefits, but the equality with which they are received, and *may* be returned. The fortune, which made you a king, forbade you to have a friend. It is a law of nature which cannot be violated with impunity. The mistaken prince, who looks for friendship, will find a favourite, and in that favourite the ruin of his affairs.

The people of England are loyal to the house of Hanover, not from a vain preference of one family to another, but from a conviction that the establishment of that family was necessary to the support of their civil and religious liberties. This, Sir, is a principle of allegiance equally solid and rational;—fit for Englishmen to adopt, and well worthy of your Majesty's encouragement. We cannot long be deluded by nominal distinctions. The name of Stuart, of itself, is only contemptible;—armed with the sovereign authority, their principles are formidable. The prince who imitates their conduct, should be warned by their example; and while he plumes himself upon the security of his title to the crown, should remember that, as it was acquired by one revolution, it may be lost by another.

JUNIUS.

TO HIS GRACE THE DUKE OF GRAFTON

14th February 1770.

MY LORD,—If I were personally your enemy, I might pity and forgive you. You have every claim to compassion, that can arise from misery and distress. The condition you are reduced to would disarm a private enemy of his resentment, and leave no consolation to the most vindictive spirit, but that such an object, as you are, would disgrace the dignity of revenge. But in the relation you have borne to this country, you have no title to indulgence; and if I had followed the dictates of my own opinion, I never should have allowed you the respite of a moment. In your public character, you have injured every subject of the empire; and though an individual is not authorized to forgive the injuries done to society, he is called upon to assert his separate share in the public resentment. I submitted however to the judgment of men, more moderate, perhaps more candid, than myself. For my own part, I do not pretend to understand those prudent forms of decorum, those gentle rules of discretion, which some men endeavour to unite with the conduct of the greatest and most hazardous affairs. Engaged in the defence of an

honourable case, I would take a decisive part.—I should scorn to provide for a future retreat, or to keep terms with a man, who preserves no measures with the public. Neither the abject submission of deserting his post in the hour of danger, nor even the sacred shield of cowardice, should protect him. I would pursue him through life, and try the last exertion of my abilities to preserve the perishable infamy of his name, and make it immortal.

What then, my Lord, is this the event of all the sacrifices you have made to lord Bute's patronage, and to your own unfortunate ambition? Was it for this you abandoned your earliest friendships,—the warmest connexions of your youth, and all those honourable engagements, by which you once solicited, and might have acquired, the esteem of your country? Have you secured no recompense for such a waste of honour?—Unhappy man! what party will receive the common deserter of all parties? Without a client to flatter, without a friend to console you, and with only one companion from the honest house of Bloomsbury, you must now retire into a dreadful solitude. At the most active period of life, you must quit the busy scene, and conceal yourself from the world, if you would hope to save the wretched remains of a ruined reputation. The vices operate like age,—bring on disease before its time, and in the prime of youth leave the character broken and exhausted.

Yet your conduct has been mysterious, as well as contemptible. Where is now that firmness, or

obstinacy, so long boasted of by your friends, and acknowledged by your enemies? We were taught to expect, that you would not leave the ruin of this country to be completed by other hands, but were determined either to gain a decisive victory over the constitution, or to perish bravely at least behind the last dyke of the prerogative. You knew the danger, and might have been provided for it. You took sufficient time to prepare for a meeting with your parliament, to confirm the mercenary fidelity of your dependents, and to suggest to your sovereign a language suited to his dignity at least, if not to his benevolence and wisdom. Yet, while the whole kingdom was agitated with anxious expectation upon one great point, you meanly evaded the question, and, instead of the explicit firmness and decision of a king, gave us nothing but the misery of a ruined grazier, and the whining piety of a Methodist. We had reason to expect, that notice would have been taken of the petitions which the king has received from the English nation; and although I can conceive some personal motives for not yielding to them, I can find none, in common prudence or decency, for treating them with contempt. Be assured, my Lord, the English people will not tamely submit to this unworthy treatment;—they had a right to be heard, and their petitions, if not granted, deserved to be considered. Whatever be the real views and doctrine of a court, the sovereign should be taught to preserve some forms

of attention to his subjects, and if he will not redress their grievances, not to make them a topic of jest and mockery among lords and ladies of the bedchamber. Injuries may be atoned for and forgiven; but insults admit of no compensation. They degrade the mind in its own esteem, and force it to recover its level by revenge. This neglect of the petitions was however a part of your original plan of government, nor will any consequences it has produced account for your deserting your sovereign, in the midst of that distress, in which you and your new friends had involved him. One would think, my Lord, you might have taken this spirited resolution before you had dissolved the last of those early connexions, which once, even in your own opinion, did honour to your youth;—before you had obliged lord Granby to quit a service he was attached to;—before you had discarded one chancellor, and killed another. To what an abject condition have you laboured to reduce the best of princes, when the unhappy man, who yields at last to such personal instance and solicitation, as never can be fairly employed against a subject, feels himself degraded by his compliance, and is unable to survive the disgraceful honours which his gracious sovereign had compelled him to accept! He was a man of spirit, for he had a quick sense of shame, and death has redeemed his character. I know your Grace too well to appeal to your feelings upon this event; but there is another heart, not yet, I hope, quite

callous to the touch of humanity, to which it ought to be a dreadful lesson for ever.

Now, my Lord, let us consider the situation to which you have conducted, and in which you have thought it advisable to abandon, your royal master. Whenever the people have complained, and nothing better could be said in defence of the measures of government, it has been the fashion to answer us, though not very fairly, with an appeal to the private virtues of our sovereign. "Has he not, to relieve the people, surrendered a considerable part of his revenue? Has he not made the judges independent, by fixing them in their places for life?"—My Lord, we acknowledge the gracious principle, which gave birth to these concessions, and have nothing to regret, but that it has never been adhered to. At the end of seven years, we are loaded with a debt of above five hundred thousand pounds upon the civil list, and we now see the chancellor of Great Britain tyrannically forced out of his office, not for want of abilities, not for want of integrity, or of attention to his duty, but for delivering his honest opinion in parliament, upon the greatest constitutional question that has arisen since the revolution.—We care not to whose private virtues you appeal; the theory of such a government is falsehood and mockery;—the practice is oppression. You have laboured then (though I confess to no purpose) to rob your master of the only plausible answer that ever was given in defence of his government,—of

the opinion, which the people had conceived of his personal honour and integrity.—The duke of Bedford was more moderate than your Grace. He only forced his master to violate a solemn promise made to an individual. But you, my Lord, have successfully extended your advice to every political, every moral engagement, that could bind either the magistrate or the man. The condition of a king is often miserable, but it required your Grace's abilities to make it contemptible.—You will say perhaps that the faithful servants in whose hands you have left him, are able to retrieve his honour, and to support his government. You have publicly declared, even since your resignation, that you approved of their measures, and admired their characters, particularly that of the earl of Sandwich. What a pity it is, that, with all this approbation, you should think it necessary to separate yourself from such amiable companions. You forget, my Lord, that while you are lavish in the praise of men whom you desert, you are publicly opposing your conduct to your opinions, and depriving yourself of the only plausible pretence you had for leaving your sovereign overwhelmed with distress; I call it plausible, for, in truth, there is no reason whatsoever, less than the frowns of your master, that could justify a man of spirit for abandoning his post at a moment so critical and important? It is in vain to evade the question. If you will not speak out, the public have a right to judge from

appearances. We are authorized to conclude, that you either differed from your colleagues, whose measures you still affect to defend, or that you thought the administration of the king's affairs no longer tenable. You are at liberty to chuse between the hypocrite and the coward. Your best friends are in doubt which way they shall incline. Your country unites the characters, and gives you credit for them both. For my own part, I see nothing inconsistent in your conduct. You began with betraying the people,—you conclude with betraying the king.

In your treatment of particular persons, you have preserved the uniformity of your character. Even Mr Bradshaw declares, that no man was ever so ill used as himself. As to the provision you have made for his family, he was entitled to it by the house he lives in. The successor of one chancellor might well pretend to be the rival of another. It is the breach of private friendship which touches Mr Bradshaw: and to say the truth, when a man of his rank and abilities had taken so active a part in your affairs, he ought not to have been let down at last with a miserable pension of fifteen hundred pounds a year. Colonel Luttrell, Mr Onslow, and governor Burgoyne, were equally engaged with you, and have rather more reason to complain than Mr Bradshaw. These are men, my Lord, whose friendship you should have adhered to on the same principle, on which you deserted lord Rockingham, lord Chatham, lord Camden, and

the duke of Portland. We can easily account for your violating your engagements with men of honour, but why should you betray your *natural* connexions? Why separate yourself from lord Sandwich, lord Gower, and Mr Rigby, or leave the three worthy gentlemen above mentioned to shift for themselves? With all the fashionable indulgence of the times, this country does not abound in characters like theirs; and you may find it a difficult matter to recruit the black catalogue of your friends.

The recollection of the royal patent you sold to Mr Hine, obliges me to say a word in defence of a man whom you have taken the most dishonourable means to injure. I do not refer to the sham prosecution which you affected to carry on against him. On that ground, I doubt not he is prepared to meet you with tenfold recrimination, and set you at defiance. The injury you have done him affects his moral character. You knew that the offer to purchase the reversion of a place, which has heretofore been sold under a decree of the court of Chancery, however imprudent in his situation, would no way tend to cover him with that sort of guilt which you wished to fix upon him in the eyes of the world. You laboured then by every species of false suggestion, and even by publishing counterfeit letters, to have it understood, that he had proposed terms of accommodation to you, and had offered to abandon his principles, his party, and his friends. You

consulted your own breast for a character of consummate treachery, and gave it to the public for that of Mr Vaughan. I think myself obliged to do this justice to an injured man, because I was deceived by the appearances thrown out by your Grace, and have frequently spoken of his conduct with indignation. If he really be, what I think him, honest, though mistaken, he will be happy in recovering his reputation, though at the expense of his understanding. Here, I see, the matter is likely to rest. Your Grace is afraid to carry on the prosecution. Mr Hine keeps quiet possession of his purchase; and governor Burgoyne, relieved from the apprehension of refunding the money, sits down, for the remainder of his life, INFAMOUS AND CONTENTED.

I believe, my Lord, I may now take my leave of you for ever. You are no longer that resolute minister, who had spirit to support the most violent measures; who compensated for the want of great and good qualities, by a brave determination (which some people admired and relied on) to maintain himself without them. The reputation of obstinacy and perseverance might have supplied the place of all the absent virtues. You have now added the last negative to your character, and meanly confessed that you are destitute of the common spirit of a man. Retire then, my Lord, and hide your blushes from the world; for, with such a load of shame, even BLACK may change its colour. A mind such as yours, in the solitary

hours of domestic enjoyment, may still find topics of consolation. You may find it in the memory of violated friendship; in the afflictions of an accomplished prince, whom you have disgraced and deserted, and in the agitations of a great country, driven by *your* councils to the brink of destruction.

The palm of ministerial firmness is now transferred to lord North. He tells us so himself, with the plenitude of the *ore rotundo* ; and I am ready enough to believe, that, while he can keep his place, he will not easily be persuaded to resign it. Your Grace was the firm minister of yesterday: Lord North is the firm minister of to-day. To-morrow, perhaps, his Majesty, in his wisdom, may give us a rival for you both. You are too well acquainted with the temper of your late allies, to think it possible that lord North should be permitted to govern this country. If we may believe common fame, they have shown him their superiority already. His Majesty is indeed too gracious to insult his subjects, by chusing his first minister from among the domestics of the duke of Bedford. That would have been too gross an outrage to the three kingdoms. Their purpose, however, is equally answered by pushing forward this unhappy figure, and forcing it to bear the odium of measures, which they in reality direct. Without immediately appearing to govern, they possess the power, and distribute the emoluments, of government as they think proper. They still adhere to the spirit of that calculation, which made Mr Luttrell repre-

sentative of Middlesex. Far from regretting your retreat, they assure us very gravely, that it increases the real strength of the ministry. According to this way of reasoning, they will probably grow stronger, and more flourishing, every hour they exist; for I think there is hardly a day passes in which some one or other of his Majesty's servants does not leave them to improve by the loss of his assistance. But, alas! their countenances speak a different language. When the members drop off, the main body cannot be insensible of its approaching dissolution. Even the violence of their proceedings is a signal of despair. Like broken tenants, who have had warning to quit the premises, they curse their landlord, destroy the fixtures, throw every thing into confusion, and care not what mischief they do to the estate.

JUNIUS.

TO THE RIGHT HONOURABLE LORD MANSFIELD

14th November 1770.

MY LORD,—The appearance of this letter will attract the curiosity of the public, and command even your Lordship's attention. I am considerably in your debt, and shall endeavour, once for all, to balance the account. Accept of this address, my Lord, as a prologue to more important scenes, in which you will probably be called upon to act or suffer.

You will not question my veracity, when I assure you that it has not been owing to any particular respect for your person that I have abstained from you so long. Besides the distress and danger with which the press is threatened, when your Lordship is party, and the party is to be judge, I confess I have been deterred by the difficulty of the task. Our language has no term of reproach, the mind has no idea of detestation, which has not already been happily applied to you, and exhausted.—Ample justice has been done by abler pens than mine to the separate merits of your life and character. Let it be *my* humble office to collect the scattered sweets, till their united virtue tortures the sense.

Permit me to begin with paying a just tribute to Scotch sincerity, wherever I find it. I own I am not apt to confide in the professions of gentlemen of that country, and when they smile, I feel an involuntary emotion to guard myself against mischief. With this general opinion of an ancient nation, I always thought it much to your Lordship's honour, that, in your earlier days, you were but little infected with the prudence of your country. You had some original attachments, which you took every proper opportunity to acknowledge. The liberal spirit of youth prevailed over your native discretion. Your zeal in the cause of an unhappy prince was expressed with the sincerity of wine, and some of the solemnities of religion. This, I conceive, is the most amiable point of view, in which your character has appeared. Like an honest man, you took that part in politics which might have been expected from your birth, education, country, and connexions. There was something generous in your attachment to the banished house of Stuart. We lament the mistakes of a good man, and do not begin to detest him until he affects to renounce his principles. Why did you not adhere to that loyalty you once professed? Why did you not follow the example of your worthy brother? With him, you might have shared in the honour of the Pretender's confidence—with him, you might have preserved the integrity of your character, and England, I think, might have spared you without regret.—Your friends

will say, perhaps, that although you deserted the fortune of your liege lord, you have adhered firmly to the principles which drove his father from the throne;—that without openly supporting the person, you have done essential service to the cause, and consoled yourself for the loss of a favourite family, by reviving and establishing the maxims of their government. This is the way, in which a Scotchman's understanding corrects the error of his heart.—My Lord, I acknowledge the truth of the defence, and can trace it through all your conduct. I see, through your whole life, one uniform plan to enlarge the power of the crown, at the expense of the liberty of the subject. To this object, your thoughts, words, and actions have been constantly directed. In contempt or ignorance of the common law of England, you have made it your study to introduce into the court, where you preside, maxims of jurisprudence unknown to Englishmen. The Roman code, the law of nations, and the opinion of foreign civilians, are your perpetual theme;—but who ever heard you mention Magna Charta or the Bill of Rights with approbation or respect? By such treacherous arts, the noble simplicity and free spirit of our Saxon laws were first corrupted. The Norman conquest was not complete, until Norman lawyers had introduced their laws, and reduced slavery to a system.—This one leading principle directs your interpretation of the laws, and accounts for your treatment of juries. It is not in political questions

only (for there the courtier might be forgiven), but let the cause be what it may, your understanding is equally on the rack, either to contract the power of the jury, or to mislead their judgment. For the truth of this assertion, I appeal to the doctrine you delivered in lord Grosvenor's cause. An action for criminal conversation being brought by a peer against a prince of the blood, you were daring enough to tell the jury that, in fixing the damages, they were to pay no regard to the quality or fortune of the parties;—that it was a trial between A. and B.—that they were to consider the offence in a moral light only, and give no greater damages to a peer of the realm, than to the meanest mechanic. I shall not attempt to refute a doctrine, which, if it was meant for law, carries falsehood and absurdity upon the face of it; but, if it was meant for a declaration of your political creed, is clear and consistent. Under an arbitrary government, all ranks and distinctions are confounded. The honour of a nobleman is no more considered than the reputation of a peasant, for, with different liveries, they are equally slaves.

Even in matters of private property, we see the same bias and inclination to depart from the decisions of your predecessors, which you certainly ought to receive as evidence of the common law. Instead of those certain, positive rules, by which the judgment of a court of law should invariably be determined, you have fondly introduced your own unsettled notions of equity and substantial

justice. Decisions given upon such principles do not alarm the public so much as they ought, because the consequence and tendency of each particular instance is not observed or regarded. In the mean time the practice gains ground; the Court of King's Bench becomes a court of equity, and the judge, instead of consulting strictly the law of the land, refers only to the wisdom of the court, and to the purity of his own conscience. The name of Mr justice Yates will naturally revive in your mind some of those emotions of fear and detestation, with which you always beheld him. That great lawyer, that honest man, saw your whole conduct in the light that I do. After years of ineffectual resistance to the pernicious principles introduced by your Lordship, and uniformly supported by your *humble friends* upon the bench, he determined to quit a court, whose proceedings and decisions he could neither assent to with honour, nor oppose with success.

The injustice done to an individual is sometimes of service to the public. Facts are apt to alarm us more than the most dangerous principles. The sufferings and firmness of a printer have roused the public attention. You knew and felt that your conduct would not bear a parliamentary inquiry, and you hoped to escape it by the meanest, the basest sacrifice of dignity and consistency, that ever was made by a great magistrate. Where was your firmness, where was that vindictive spirit, of which we have seen so many examples, when a

man, so inconsiderable as Bingley, could force you to confess, in the face of this country, that, for two years together, you had illegally deprived an English subject of his liberty, and that he had triumphed over you at last? Yet I own, my Lord, that yours is not an uncommon character. Women, and men like women, are timid, vindictive, and irresolute. Their passions counteract each other, and make the same creature, at one moment hateful, at another contemptible. I fancy, my Lord, some time will elapse before you venture to commit another Englishman for refusing to answer interrogatories.

The doctrine you have constantly delivered, in cases of libel, is another powerful evidence of a settled plan to contract the legal power of juries, and to draw questions, inseparable from fact, within the *arbitrium* of the court. Here, my Lord, you have fortune of your side. When you invade the province of the jury in matter of libel, you, in effect, attack the liberty of the press, and with a single stroke wound two of your greatest enemies.—In some instances you have succeeded, because jurymen are too often ignorant of their own rights, and too apt to be awed by the authority of a chief justice. In other criminal prosecutions, the malice of the design is confessedly as much the subject of consideration to a jury, as the certainty of the fact. If a different doctrine prevails in the case of libels, why should it not extend to *all* criminal cases?—Why not to capital offences? I see no reason (and I dare say you will agree with me that there is no

good one) why the life of the subject should be better protected against you than his liberty or property. Why should you enjoy the full power of pillory, fine, and imprisonment, and not be indulged with hanging or transportation? With your Lordship's fertile genius and merciful disposition, I can conceive such an exercise of the power you have, as could hardly be aggravated by that which you have not.

But, my Lord, since you have laboured (and not unsuccessfully) to destroy the substance *of the trial*, why should you suffer the form of the *verdict* to remain? Why force twelve honest men, in palpable violation of their oaths, to pronounce their fellow-subject a *guilty* man, when, almost at the same moment, you forbid their enquiring into the only circumstance which, in the eye of law and reason, constitutes guilt—the malignity or innocence of his intentions?—But I understand your Lordship.—If you could succeed in making the trial by jury useless and ridiculous, you might then with greater safety introduce a bill into parliament for enlarging the jurisdiction of the court, and extending your favourite trial by interrogatories to every question, in which the life or liberty of an Englishman is concerned.

Your charge to the jury, in the prosecution against Almon and Woodfall, contradicts the highest legal authorities, as well as the plainest dictates of reason. In Miller's cause, and still more expressly in that of Baldwin, you have

proceeded a step further, and grossly contradicted yourself.—You may know perhaps, though I do not mean to insult you by an appeal to your experience, that the language of truth is uniform and consistent. To depart from it safely, requires memory and discretion. In the two last trials, your charge to the jury began, as usual, with assuring them that they had nothing to do with the law,—that they were to find the bare fact, and not concern themselves about the legal inferences drawn from it, or the degree of the defendant's guilt.—Thus far you were consistent with your former practice.—But how will you account for the conclusion? You told the jury that, “if, after all, they would take upon themselves to determine the law, *they might do it*, but they must be very sure that they determined according to law, for it touched their consciences, and they acted at their peril.”—If I understand your first proposition, you meant to affirm, that the jury were not competent judges of the law in the criminal case of a libel—that it did not fall within *their* jurisdiction; and that, with respect to *them*, the malice or innocence of the defendant's intentions would be a question *coram non judice*.—But the second proposition clears away your own difficulties, and restores the jury to all their judicial capacities. You make the competence of the court to depend upon the legality of the decision. In the first instance, you deny the power absolutely. In the second, you admit the power, provided it be legally exercised.

Now, my Lord, without pretending to reconcile the distinctions of Westminster-hall with the simple information of common sense, or the integrity of fair argument, I shall be understood by your Lordship, when I assert that, if a jury or any other court of judicature (for jurors are judges) have no right to entertain a cause, or question at law, it signifies nothing whether their decision be or be not according to law. Their decision is in itself a mere nullity; the parties are not bound to submit to it; and, if the jury run any risque of punishment, it is not for pronouncing a corrupt or illegal verdict, but for the illegality of meddling with a point, on which they have no legal authority to decide.

I cannot quit this subject without reminding your Lordship of the name of Mr Benson. Without offering any legal objection, you ordered a special jurymen to be set aside in a cause, where the king was prosecutor. The novelty of the fact required explanation. Will you condescend to tell the world by what law or custom you were authorized to make a peremptory challenge of a jurymen? The parties indeed have this power, and perhaps your Lordship, having accustomed yourself to unite the characters of judge and party, may claim it in virtue of the new capacity you have assumed, and profit by your own wrong. The time, within which you might have been punished for this daring attempt to pack a jury, is, I fear, elapsed; but no length of time shall erase the record of it.

The mischiefs you have done this country, are

not confined to your interpretation of the laws. You are a minister, my Lord, and, as such, have long been consulted. Let us candidly examine what use you have made of your ministerial influence. I will not descend to little matters, but come at once to those important points, on which your resolution was waited for, on which the expectation of your opinion kept a great part of the nation in suspense.—A constitutional question arises upon a declaration of the law of parliament, by which the freedom of election and the birthright of the subject were supposed to have been invaded.—The king's servants are accused of violating the constitution.—The nation is in a ferment.—The ablest men of all parties engage in the question, and exert their utmost abilities in the discussion of it.—What part has the honest lord Mansfield acted? As an eminent judge of the law, his opinion would have been respected.—As a peer, he had a right to demand an audience of his sovereign, and inform him that his ministers were pursuing unconstitutional measures.—Upon other occasions, my Lord, you have no difficulty in finding your way into the closet. The pretended neutrality of belonging to no party, will not save your reputation. In questions merely political, an honest man may stand neuter. But the laws and constitution are the general property of the subject;—not to defend is to relinquish;—and who is there so senseless as to renounce his share in a common benefit, unless he hopes to profit by a new division of the spoil.

As a lord of parliament, you were repeatedly called upon to condemn or defend the new law declared by the House of Commons. You affected to have scruples, and every expedient was attempted to remove them.—The question was proposed and urged to you in a thousand different shapes.—Your prudence still supplied you with evasion;—your resolution was invincible. For my own part, I am not anxious to penetrate this solemn secret. I care not to whose wisdom it is intrusted, nor how soon you carry it with you to your grave. You have betrayed your opinion by the very care you have taken to conceal it. It is not from lord Mansfield that we expect any reserve in declaring his real sentiments in favour of government, or in opposition to the people; nor is it difficult to account for the motions of a timid, dishonest heart, which neither has virtue enough to acknowledge truth, nor courage to contradict it.—Yet you continue to support an administration which you know is universally odious, and which, on some occasions, you yourself speak of with contempt. You would fain be thought to take no share in government, while, in reality, you are the main-spring of the machine.—Here too we trace the *little*, prudential policy of a Scotchman.—Instead of acting that open, generous part, which becomes your rank and station, you meanly skulk into the closet, and give your sovereign such advice, as you have not spirit to avow or defend. You secretly engross the power, while you decline the title of minister; and

though you dare not be chancellor, you know how to secure the emoluments of the office.—Are the seals to be for ever in commission, that you may enjoy five thousand pounds a year?—I beg pardon, my Lord;—your fears have interposed at last, and forced you to resign.—The odium of continuing speaker of the House of Lords, upon such terms, was too formidable to be resisted. What a multitude of bad passions are forced to submit to a constitutional infirmity! But though you have relinquished the salary, you still assume the rights of a minister.—Your conduct, it seems, must be defended in parliament.—For what other purpose is your wretched friend, that miserable serjeant, posted to the House of Commons? Is it in the abilities of Mr Leigh to defend the great lord Mansfield?—Or is he only the punch of the puppet-show, to speak as he is prompted by the CHIEF JUGGLER behind the curtain?

In public affairs, my Lord, cunning, let it be ever so well wrought, will not conduct a man honourably through life. Like bad money, it may be current for a time, but it will soon be cried down. It cannot consist with a liberal spirit, though it be sometimes united with extraordinary qualifications. When I acknowledge your abilities, you may believe I am sincere. I feel for human nature, when I see a man, so gifted as you are, descend to such vile practice.—Yet do not suffer your vanity to console you too soon. Believe me, my good Lord, you are not admired in the same degree in

which you are detested. It is only the partiality of your friends, that balances the defects of your heart with the superiority of your understanding. No learned man, even among your own tribe, thinks you qualified to preside in a court of common law. Yet it is confessed that, under *Justinian*, you might have made an incomparable *Prætor*.—It is remarkable enough, but I hope not ominous, that the laws you understand best, and the judges you affect to admire most, flourished in the decline of a great empire, and are supposed to have contributed to its fall.

Here, my Lord, it may be proper for us to pause together.—It is not for my own sake that I wish you to consider the delicacy of your situation. Beware how you indulge the first emotions of your resentment. This paper is delivered to the world, and cannot be recalled! The persecution of an innocent printer cannot alter facts, nor refute arguments.—Do not furnish me with farther materials against yourself.—An honest man, like the true religion, appeals to the understanding, or modestly confides in the internal evidence of his conscience. The impostor employs force instead of argument, imposes silence where he cannot convince, and propagates his character by the sword.

JUNIUS.

TO THE PRINTER OF THE “PUBLIC ADVERTISER”

30th January 1771.

SIR,—If we recollect in what manner the *King's friends* have been constantly employed, we shall have no reason to be surprised at any condition of disgrace, to which the once respected name of Englishmen may be degraded. His Majesty has no cares, but such as concern the laws and constitution of this country. In his royal breast there is no room left for resentment, no place for hostile sentiments against the natural enemies of his crown. The system of government is uniform.—Violence and oppression at home can only be supported by treachery and submission abroad. When the civil rights of the people are daringly invaded on one side, what have we to expect, but that their political rights should be deserted and betrayed, in the same proportion, on the other? The plan of domestic policy, which has been invariably pursued, from the moment of his present Majesty's accession, engrosses all the attention of his servants. They know that the security of their places depends upon their maintaining, at any hazard, the secret system of the closet. A foreign war might embarrass, an unfavourable

event might ruin the minister, and defeat the deep-laid scheme of policy, to which he and his associates owe their employments. Rather than suffer the execution of that scheme to be delayed or interrupted, the king has been advised to make a public surrender, a solemn sacrifice, in the face of all Europe, not only of the interests of his subjects, but of his own personal reputation, and of the dignity of that crown, which his predecessors have worn with honour. These are strong terms, Sir, but they are supported by fact and argument.

The king of Great Britain had been for some years in possession of an island, to which, as the ministry themselves have repeatedly asserted, the Spaniards had no claim of right. The importance of the place is not in question. If it were, a better judgment might be formed of it from the opinions of lord Anson and lord Egmont, and from the anxiety of the Spaniards, than from any fallacious insinuations thrown out by men, whose interest it is to undervalue that property, which they are determined to relinquish. The pretensions of Spain were a subject of negotiation between the two courts. They had been discussed, but not admitted. The king of Spain, in these circumstances, bids adieu to amicable negotiation, and appeals directly to the sword. The expedition against Port Egmont does not appear to have been a sudden ill-concerted enterprise. It seems to have been conducted not only with the usual military precautions, but in all the forms and

ceremonies of war. A frigate was first employed to examine the strength of the place. A message was then sent, demanding immediate possession, in the Catholic king's name, and ordering our people to depart. At last a military force appears, and compels the garrison to surrender. A formal capitulation ensues, and his Majesty's ship, which might at least have been permitted to bring home his troops immediately, is detained in port twenty days, and her rudder forcibly taken away. This train of facts carries no appearance of the rashness or violence of a Spanish governor. On the contrary, the whole plan seems to have been formed and executed, in consequence of deliberate orders, and a regular instruction from the Spanish court. Mr Bucarelli is not a pirate, nor has he been treated as such by those who employed him. I feel for the honour of a gentleman, when I affirm that our king owes him a signal reparation.—Where will the humiliation of this country end! A king of Great Britain, not contented with placing himself upon a level with a Spanish governor, descends so low as to do a notorious injustice to that governor. As a salvo for his own reputation, he has been advised to traduce the character of a brave officer, and to treat him as a common robber, when he knew with certainty that Mr Bucarelli had acted in obedience to his orders, and had done no more than his duty. Thus it happens in private life, with a man who has no spirit nor sense of honour.—One of his equals orders a servant to strike him.—

Instead of returning the blow to the master, his courage is contented with throwing an aspersion, equally false and public, upon the character of the servant.

This short recapitulation was necessary to introduce the consideration of his Majesty's speech, of 13th November 1770, and the subsequent measures of government. The excessive caution with which the speech was drawn up, had impressed upon me an early conviction, that no serious resentment was thought of, and that the conclusion of the business, whenever it happened, must, in some degree, be dishonourable to England. There appears through the whole speech, a guard and reserve in the choice of expression, which shows how careful the ministry were not to embarrass their future projects by any firm or spirited declaration from the throne. When all hopes of peace are lost, his Majesty tells his parliament, that he is preparing,—not for barbarous war, but (with all his mother's softness) *for a different situation*.—An open act of hostility, authorized by the Catholic king, is called *an act of a governor*. This act, to avoid the mention of a regular siege and surrender, passes under the piratical description of *seizing by force*; and the thing taken is described, not as a part of the king's territory or proper dominion, but merely as a *possession*, a word expressly chosen in contradistinction to, and exclusion of, the idea of *right*, and to prepare us for a future surrender both of the right and of the possession. Yet this speech,

Sir, cautious and equivocal as it is, cannot, by any sophistry, be accommodated to the measures which have since been adopted. It seemed to promise, that whatever might be given up by secret stipulation, some care would be taken to save appearances to the public. The event shows us, that to depart, in the minutest article, from the nicety and strictness of punctilio, is as dangerous to national honour as to female virtue. The woman who admits of one familiarity, seldom knows where to stop, or what to refuse; and when the counsels of a great country give way in a single instance,—when once they are inclined to submission,—every step accelerates the rapidity of the descent. The ministry themselves, when they framed the speech, did not foresee that they should ever accede to such an accommodation as they have since advised their master to accept of.

The king says, *The honour of my crown and the rights of my people are deeply affected.* The Spaniard, in his reply, says, *I give you back possession, but I adhere to my claim of prior right, reserving the assertion of it for a more favourable opportunity.*

The speech says, *I made an immediate demand of satisfaction, and, if that fails, I am prepared to do myself justice.* This immediate demand must have been sent to Madrid on the 12th of September, or in a few days after. It was certainly refused, or evaded, and the king *has not* done himself justice.—When the first magistrate speaks to the nation, some care should be taken of his apparent veracity.

The speech proceeds to say, *I shall not discontinue my preparations until I have received proper reparation for the injury.* If this assurance may be relied on, what an enormous expense is entailed, *sine die*, upon this unhappy country! Restitution of a possession and reparation of an injury are as different in substance as they are in language. The very act of restitution may contain, as in this instance it palpably does, a shameful aggravation of the injury. A man of spirit does not measure the degree of an injury by the mere positive damage he has sustained. He considers the principle on which it is founded; he resents the superiority asserted over him; and rejects with indignation the claim of right, which his adversary endeavours to establish, and would force him to acknowledge.

The motives, on which the Catholic king makes restitution, are, if possible, more insolent and disgraceful to our sovereign, than even the declaratory condition annexed to it. After taking four months to consider whether the expedition was undertaken by his own orders or not, he condescends to disavow the enterprise, and to restore the island;—not from any regard to justice,—not from any regard he bears to his Britannic Majesty, but merely *from the persuasion, in which he is, of the pacific sentiments of the king of Great Britain.*—At this rate, if our king had discovered the spirit of a man,—if he had made a peremptory demand of satisfaction, the king of Spain would have given him a peremptory refusal. But why this unseasonable,

this ridiculous mention of the king of Great Britain's pacific intentions? Have they ever been in question? Was *he* the aggressor? Does he attack foreign powers without provocation? Does he even resist, when he is insulted? No, Sir, if any ideas of strife or hostility have entered his royal mind, they have a very different direction. The enemies of England have nothing to fear from them.

After all, Sir, to what kind of disavowal has the king of Spain at last consented? Supposing it made in proper time, it should have been accompanied with instant restitution; and if Mr Bucarelli acted without orders, he deserved death. Now, Sir, instead of immediate restitution, we have a four months' negotiation, and the officer, whose act is disavowed, returns to court, and is loaded with honours.

If the actual situation of Europe be considered, the treachery of the king's servants, particularly of lord North, who takes the whole upon himself, will appear in the strongest colours of aggravation. Our allies were masters of the Mediterranean. The king of France's present aversion from war and the distraction of his affairs are notorious. He is now in a state of war with his people. In vain did the Catholic king solicit him to take part in the quarrel against us. His finances were in the last disorder, and it was probable that his troops might find sufficient employment at home. In these circumstances, we might have dictated the law to Spain. There are no terms to which she might not have

been compelled to submit. At the worst, a war with Spain alone carries the fairest promise of advantage. One good effect at least would have been immediately produced by it. The desertion of France would have irritated her ally, and in all probability have dissolved the family compact. The scene is now fatally changed. The advantage is thrown away. The most favourable opportunity is lost.—Hereafter we shall know the value of it. When the French king is reconciled to his subjects;—when Spain has completed her preparations;—when the collected strength of the house of Bourbon attacks us at once, the king himself will be able to determine upon the wisdom or imprudence of his present conduct. As far as the probability of argument extends, we may safely pronounce, that a conjuncture, which threatens the very being of this country, has been wilfully prepared and forwarded by our own ministry. How far the people may be animated to resistance under the present administration, I know not; but this I know with certainty, that, under the present administration, or if any thing like it should continue, it is of very little moment whether we are a conquered nation or not.

Having travelled thus far in the high road of matter of fact, I may now be permitted to wander a little into the field of imagination. Let us banish from our minds the persuasion that these events have really happened in the reign of the best of princes. Let us consider them as nothing more than the materials of a fable, in which we

may conceive the sovereign of some other country to be concerned. I mean to violate all the laws of probability, when I suppose that this imaginary king, after having voluntarily disgraced himself in the eyes of his subjects, might return to a sense of his dishonour!—that he might perceive the snare laid for him by his ministers, and feel a spark of shame kindling in his breast.—The part he must then be obliged to act, would overwhelm him with confusion. To his parliament he must say, *I called you together to receive your advice, and have never asked your opinion.*—To the merchant,—*I have distressed your commerce ; I have dragged your seamen out of your ships, I have loaded you with a grievous weight of insurances.*—To the landholder,—*I told you war was too probable, when I was determined to submit to any terms of accommodation ; I extorted new taxes from you before it was possible they could be wanted, and am now unable to account for the application of them.*—To the public creditor,—*I have delivered up your fortunes a prey to foreigners, and to the vilest of your fellow-subjects.* Perhaps this repenting prince might conclude with one general acknowledgment to them all,—*I have involved every rank of my subjects in anxiety and distress, and have nothing to offer you in return, but the certainty of national dishonour, an armed truce, and peace without security.*

If these accounts were settled, there would still remain an apology to be made to his navy and to his army. To the first he would say, *You were once*

the terror of the world. But go back to your harbours. A man dishonoured, as I am, has no use for your service. It is not probable that he would appear again before his soldiers, even in the pacific ceremony of a review. But wherever he appeared, the humiliating confession would be extorted from him: I have received a blow,—and had not spirit to resent it. I demanded satisfaction, and have accepted a declaration, in which the right to strike me again is asserted and confirmed. His countenance at least would speak this language, and even his guards would blush for him.

But to return to our argument.—The ministry, it seems, are labouring to draw a line of distinction between the honour of the crown and the rights of the people. This new idea has yet been only started in discourse, for in effect both objects have been equally sacrificed. I neither understand the distinction, nor what use the ministry propose to make of it. The king's honour is that of his people. *Their* real honour and real interest are the same.—I am not contending for a vain punctilio. A clear, unblemished character comprehends not only the integrity that will not offer, but the spirit that will not submit to, an injury; and whether it belongs to an individual or to a community, it is the foundation of peace, of independence, and of safety. Private credit is wealth;—public honour is security.—The feather that adorns the royal bird, supports its flight. Strip him of his plumage, and you fix him to the earth.

JUNIUS.

TO LORD CHIEF JUSTICE MANSFIELD

2nd November 1771.

At the intercession of three of your countrymen, you have bailed a man, who, I presume, is also a *Scotchman*, and whom the lord mayor of London had refused to bail. I do not mean to enter into an examination of the partial, sinister motives of your conduct; but confining myself strictly to the fact, I affirm, that you have done that, which by law you were not warranted to do. The thief was taken in the theft;—the stolen goods were found upon him, and he made no defence. In these circumstances (the truth of which you dare not deny, because it is of public notoriety), it could not stand indifferent whether he was guilty or not, much less could there be any presumption of his innocence; and, in these circumstances, I affirm, in contradiction to YOU, LORD CHIEF JUSTICE MANSFIELD, that, by the laws of England, he was *not bailable*. If ever *Mr Eyre* should be brought to trial, we shall hear what you have to say for yourself; and I pledge myself, before God and my country, in proper time and place to make good my charge against you.

JUNIUS.

TO LORD CHIEF JUSTICE MANSFIELD

21st January 1772.

I have undertaken to prove that when, at the intercession of three of your countrymen, you bailed *John Eyre*, you did that, *which by law you were not warranted to do*, and that a felon, under the circumstances *of being taken in the fact, with the stolen goods upon him, and making no defence*, is *not bailable* by the laws of England. Your learned advocates have interpreted this charge into a denial that the Court of King's Bench, or the judges of that court during the vacation, have any greater authority to bail for criminal offences, than a justice of peace. With the instance before me, I am supposed to question your power of doing wrong, and to deny the existence of a power, at the same moment that I arraign the illegal exercise of it. But the opinions of such men, whether wilful in their malignity, or sincere in their ignorance, are unworthy of my notice. You, lord Mansfield, did not understand me so, and I promise you, your cause requires an abler defence.—I am now to make good my charge against you. However dull my argument, the subject of it is interesting. I shall be honoured with the attention of the public. and have a right to demand the attention of the

legislature. Supported, as I am, by the whole body of the criminal law of England, I have no doubt of establishing my charge. If, on your part, you should have no plain, substantial defence, but should endeavour to shelter yourself under the quirk and evasion of a practising lawyer, or under the mere insulting assertion of power without right, the reputation you pretend to is gone for ever;—you stand degraded from the respect and authority of your office, and are no longer, *de jure*, Lord Chief Justice of England. This letter, my Lord, is addressed, not so much to *you*, as to the public. Learned as you are, and quick in apprehension, few arguments are necessary to satisfy you that you have done that, which by law you were not warranted to do. Your conscience already tells you, that you have sinned against knowledge, and that whatever defence you make contradicts your own internal conviction. But other men are willing enough to take the law upon trust. They rely upon authority, because they are too indolent to search for information; or, conceiving that there is some mystery in the laws of their country, which lawyers are only qualified to explain, they distrust their judgment, and voluntarily renounce the right of thinking for themselves. With all the evidence of history before them, from *Tresillian* to *Jefferies*, from *Jefferies* to *Mansfield*, they will not believe it possible that a learned judge can act in direct contradiction to those laws, which he is supposed

to have made the study of his life, and which he has sworn to administer faithfully. Superstition is certainly not the characteristic of this age. Yet some men are bigoted in politics who are infidels in religion.—I do not despair of making them ashamed of their credulity.

The charge I brought against you is expressed in terms guarded and well considered. They do not deny the strict power of the judges of the Court of King's Bench to bail in cases not bailable by a justice of peace, nor replevisable by the common writ, or *ex officio* by the sheriff. I well knew the practice of the court, and by what legal rules it ought to be directed. But far from meaning to soften or diminish the force of those terms I have made use of, I now go beyond them, and affirm,

I. That the superior power of bailing for felony, claimed by the Court of King's Bench, is founded upon the opinion of lawyers, and the practice of the court;—that the assent of the legislature to this power is merely negative, and that it is not supported by any positive provision in any statute whatsoever.—If it be, produce the statute.

II. Admitting that the judges of the Court of King's Bench are vested with a discretionary power to examine and judge of circumstances and allegations, which a justice of peace is not permitted to consider, I affirm, that the judges, in the use and application of that discretionary power, are as strictly bound by the spirit, intent,

and meaning, as the justice of peace is by the words of the legislature. Favourable circumstances, alleged before the judge, may justify a doubt whether the prisoner be guilty or not; and where the guilt is doubtful, a presumption of innocence should, in general, be admitted. But, when any such probable circumstances are alleged, they alter the state and condition of the prisoner. *He* is no longer that *all-but-convicted* felon, whom the law intends, and who by law is *not bailable at all*. If no circumstances whatsoever are alleged in his favour;—if no allegation whatsoever be made to lessen the force of that evidence, which the law annexes to a positive charge of felony, and particularly to the fact of *being taken with the maner*, I then say that the lord chief justice of England has no more right to bail him than a justice of peace. The discretion of an English judge is not of mere will and pleasure; it is not arbitrary;—it is not capricious; but, as that great lawyer (whose authority I wish you respected half as much as I do) truly says, “Discretion, taken as it ought to be, is *discernere per legem quid sit justum*. If it be not directed by the right line of the law, it is a crooked cord, and appeareth to be unlawful.”—If discretion were arbitrary in the judge, he might introduce whatever novelties he thought proper; but, says lord Coke, “Novelties, without warrant of precedents, are not to be allowed; some certain rules are to be followed;—*Quicquid judicis auctoritati subjicitur, novitati non subjicitur* ;” and this sound

doctrine is applied to the Star-chamber, a court confessedly arbitrary. If you will abide by the authority of this great man, you shall have all the advantage of his opinion, wherever it appears to favour you. Excepting the plain, express meaning of the legislature, to which all private opinions must give way, I desire no better judge between us than lord Coke.

III. I affirm, that according to the obvious, indisputable meaning of the legislature, repeatedly expressed, a person positively charged with *feloniously stealing*, and taken *in flagrante delicto*, with the stolen goods upon him, *is not bailable*. The law considers him as differing in nothing from a *convict*, but in the form of conviction, and (whatever a corrupt judge may do) will accept of no security, but the confinement of his body within four walls. I know it has been alleged in your favour, that you have often bailed for murders, rapes, and other manifest crimes. Without questioning the fact, I shall not admit that you are to be justified by your own example. If that were a protection to you, where is the crime that, as a judge, you might not now securely commit? But neither shall I suffer myself to be drawn aside from my present argument, nor *you* to profit by your own wrong. To prove the meaning and intent of the legislature will require a minute and tedious deduction. To investigate a question of law demands some labour and attention, though very little genius or sagacity. As a *practical profession*, the study of the law

requires but a moderate portion of abilities. The learning of a pleader is usually upon a level with his integrity. The indiscriminate defence of right and wrong contracts the understanding, while it corrupts the heart. Subtlety is soon mistaken for wisdom, and impunity for virtue. If there be any instances upon record, as some there are undoubtedly, of genius and morality united in a lawyer, they are distinguished by their singularity, and operate as exceptions.

I must solicit the patience of my readers. This is no light matter, nor is it any more susceptible of ornament, than the conduct of lord Mansfield is capable of aggravation.

As the law of bail, in charges of felony, has been exactly ascertained by acts of the legislature, it is at present of little consequence to enquire how it stood at common law, before the statute of Westminster. And yet it is worth the reader's attention to observe, how nearly, in the ideas of our ancestors, the circumstance of being taken *with the maner* approached to the conviction of the felon. It "fixed the authoritative stamp of verisimilitude upon the accusation, and by the common law, when a thief was taken *with the maner* (that is, with the thing stolen upon him, *in manu*) he might, so detected, *flagrante delicto*, be brought into court, arraigned and tried, *without indictment*; as, by the Danish law, he might be taken and hanged upon the spot, without accusation or trial." It will soon appear that our statute law, in this behalf,

though less summary in point of proceeding, is directed by the same spirit. In one instance, the very form is adhered to. In offences relating to the forest, if a man was taken with *vert*, or venison, it was declared to be equivalent to an indictment. To enable the reader to judge for himself, I shall state, in due order, the several statutes relative to bail in criminal cases, or as much of them as may be material to the point in question, omitting superfluous words. If I misrepresent, or do not quote with fidelity, it will not be difficult to detect me.

The statute of Westminster the first, in 1275, sets forth that, "Forasmuch as sheriffs and others, who have taken and kept in prison persons detected of felony, and incontinent have let out by replevin such as were *not replevisable*, because they would gain of the one party and grieve the other; and, forasmuch as, before this time, it was not determined which persons were replevisable and which not, it is provided, and by the king commanded, that such prisoners, &c. as be *taken with the maner*, &c. or for *manifest* offences, shall be *in no wise* replevisable by the common writ, nor without writ."—Lord Coke, in his exposition of the last part of this quotation, accurately distinguishes between *replevy* by the common writ or *ex officio*, and *bail* by the King's Bench. The words of the statute certainly do not extend to the judges of that court. But, besides that the reader will soon find reason to think that the

legislature, in their intention, made no difference between *bailable* and *replevisable*, lord Coke himself (if he be understood to mean nothing but an exposition of the statute of Westminster, and not to state the law generally) does not adhere to his own distinction. In expounding the other offences, which, by this statute, are declared *not replevisable*, he constantly uses the words *not bailable*.—"That outlaws, for instance, *are not bailable at all* ;—that persons who have abjured the realm, are attainted upon their own confession, and therefore *not bailable at all by law* ;—that provers are *not bailable* ;—that notorious felons are *not bailable*." The reason why the superior courts were not named in the statute of Westminster, was plainly this, "because anciently most of the business, touching bailment of prisoners for felony or misdemeanours, was performed by the sheriffs, or special bailiffs of liberties, either by writ, or *virtute officii* ;" consequently the superior courts had little or no opportunity to commit those abuses, which the statute imputes to the sheriffs.—With submission to Doctor Blackstone, I think he has fallen into a contradiction, which, in terms at least, appears irreconcilable. After enumerating several offences not bailable, he asserts, without any condition or limitation whatsoever, "all which are clearly not admissible to bail." Yet in a few lines after he says, "*it is agreed* that the Court of King's Bench may bail for any crime whatsoever, *according to the circumstance of the case*." To his

first proposition he should have added, *by sheriffs or justices*; otherwise the two propositions contradict each other; with this difference however, that the first is absolute, the second limited by *a consideration of circumstances*. I say this without the least intended disrespect to the learned author. His work is of public utility, and should not hastily be condemned.

The statute of 17 *Richard II. cap. 10*, in 1393, sets forth, that “forasmuch as thieves notoriously defamed, *and others taken with the maner*, by their long abiding in prison, were delivered by charters, and favourable inquests procured, to the great hinderance of the people, two men of law shall be assigned, in every commission of the peace, to proceed to the deliverance of such felons,” &c. It seems, by this act, that there was a constant struggle between the legislature and the officers of justice. Not daring to admit felons *taken with the maner* to bail or mainprize, they evaded the law by keeping the party in prison a long time, and then delivering him without due trial.

The statute of 1 *Richard III.*, in 1483, sets forth, that “forasmuch as divers persons have been daily arrested and imprisoned for *suspicion* of felony, sometime of malice, and sometime of *a light suspicion*, and so kept in prison without bail or mainprize, be it ordained that every justice of peace shall have authority, by his discretion, to let such prisoners and persons so arrested to bail or mainprize.”—By this act it appears that there had

been abuses in matter of imprisonment, and that the legislature meant to provide for the immediate enlargement of persons arrested on *light suspicion* of felony.

The statute of 3 *Henry VII.*, in 1486, declares, that “under colour of the preceding act of Richard the Third, persons, *such as were not mainpernable*, were oftentimes let to bail or mainprize, by justices of the peace, whereby many murderers and felons escaped, the king, &c. hath ordained, that the justices of the peace, or two of them at the least (whereof one to be of the *quorum*), have authority to let any such prisoners or persons, mainpernable by the law, to bail or mainprize.”

The statute of 1st and 2nd of Philip and Mary, in 1554, sets forth, that “notwithstanding the preceding statute of Henry the Seventh, *one* justice of peace hath oftentimes, by sinister labour and means, set at large the greatest and notablest offenders, *such as be not replevisable by the laws of this realm*; and yet, the rather to hide their affections in that behalf, have signed the cause of their apprehension to be but only for *suspicion* of felony, whereby the said offenders have escaped unpunished, and do daily, to the high displeasure of Almighty God, the great peril of the king and queen’s true subjects, and encouragement of all thieves and evil-doers;—for reformation whereof be it enacted, that no justices of peace shall let to bail or mainprize any such persons, which, for any offence by them committed, be declared *not* to be

*replevise*d or *bailed*, or be forbidden to be *replevise*d or *bailed* by the statute of Westminster the first; and furthermore that any persons, arrested for manslaughter or felony, *being bailable by the law*, shall not be let to bail or mainprize, by any justices of peace, but in the form thereafter prescribed.”

—In the two preceding statutes, the words *bailable*, *replevisable*, and *mainpernable* are used synonymously, or promiscuously to express the same single intention of the legislature, viz. *not to accept of any security but the body of the offender*; and when the latter statute prescribes the form, in which persons arrested on *suspicion* of felony (*being bailable by the law*) may be let to bail, it evidently supposes that there are some cases, *not bailable by the law*.—

It may be thought, perhaps, that I attribute to the legislature an appearance of inaccuracy in the use of terms, merely to serve my present purpose. But, in truth, it would make more forcibly for my argument to presume that the legislature were constantly aware of the strict legal distinction between *bail* and *replevy*, and that they always meant to adhere to it. For if it be true that *replevy* is by the sheriffs, and *bail* by the higher courts at Westminster (which I think no lawyer will deny), it follows, that when the legislature expressly say, that any particular offence is by law *not bailable*, the superior courts are comprehended in the prohibition, and bound by it. Otherwise, unless there was a positive exception of the superior courts (which I affirm there never was in any

statute relative to bail) the legislature would grossly contradict themselves, and the manifest intention of the law be evaded. It is an established rule that, when the law is *special*, and the reason of it general, it is to be *generally* understood; and though, by custom, a latitude be allowed to the Court of King's Bench (to consider circumstances inductive of a doubt whether the prisoner be guilty or innocent), if this latitude be taken as an arbitrary power to bail, when no circumstances whatsoever are alleged in favour of the prisoner, it is a power without right, and a daring violation of the whole English law of bail.

The act of the 31st of Charles the Second (commonly called the *Habeas Corpus Act*) particularly declares, that it is not meant to extend to treason or felony plainly and specially expressed in the warrant of commitment. The prisoner is therefore left to seek his *Habeas Corpus* at common law; and so far was the legislature from supposing that persons (committed for treason or felony plainly and specially expressed in the warrant of commitment) could be let to bail by a single judge, or by the whole court, that this very act provides a remedy for such persons, in case they are not indicted in the course of the term or session subsequent to their commitment. The law neither suffers them to be enlarged before trial, nor to be imprisoned after the time in which they ought regularly to be tried. In this case the law says, "It shall and may be lawful to and for the judges

of the Court of King's Bench and justices of oyer and terminer, or general gaol delivery, and they are hereby required, upon motion to them made in open court, the last day of the term, session, or gaol delivery, either by the prisoner or any one in his behalf, to set at liberty the prisoner upon bail; unless it appear to the judges and justices, upon oath made, that the witnesses for the king could not be produced the same term, sessions, or gaol delivery."—Upon the whole of this article I observe,

1°. That the provision, made in the first part of it, would be, in a great measure, useless and nugatory, if any single judge might have bailed the prisoner *ex arbitrio*, during the vacation; or if the court might have bailed him immediately after the commencement of the term or sessions.—2°. When the law says, *It shall and may be lawful* to bail for felony under particular circumstances, we must presume that, before the passing of that act, it was *not* lawful to bail under those circumstances. The terms used by the legislature are *enacting*, not *declaratory*.—3°. Notwithstanding the party may have been imprisoned during the greatest part of the vacation, and during the whole session, the court are expressly forbidden to bail him from that session to the next, if oath be made that the witnesses for the king could not be produced that same term or sessions.

Having faithfully stated the several acts of parliament relative to bail in criminal cases, it may be useful to the reader to take a short, historical

review of the law of bail, through its various gradations and improvements.

By the ancient common law, before and since the conquest, all felonies wereailable, till murder was excepted by statute, so that persons might be admitted to bail, before conviction, almost in every case. The statute of Westminster says that, before that time, it had not been determined, which offences were replevisable, and which were not, whether by the common writ *de homine replegiando*, or *ex officio* by the sheriff. It is very remarkable that the abuses arising from this unlimited power of replevy, dreadful as they were, and destructive to the peace of society, were not corrected or taken notice of by the legislature, until the Commons of the kingdom had obtained a share in it by their representatives; but the House of Commons had scarce begun to exist, when these formidable abuses were corrected by the statute of Westminster. It is highly probable that the mischief had been severely felt by the people, although no remedy had been provided for it by the Norman kings or barons. "The iniquity of the times was so great, as it even forced the subjects to forego that, which was in account a great liberty, to stop the course of a growing mischief." The preamble to the statutes, made by the first parliament of Edward the First, assigns the reason of calling it, "because the people had been otherwise entreated than they ought to be, the peace less kept, the laws less used, and offenders less punished than they

ought to be, by reason whereof the people feared less to offend;" and the first attempt to reform these various abuses was by contracting the power of replevying felons.

For above two centuries following it does not appear that any alteration was made in the law of bail, except that *being taken with vert or venison* was declared to be equivalent to indictment. The legislature adhered firmly to the spirit of the statute of Westminster. The statute of 27th of Edward the First directs the justices of assize to enquire and punish officers bailing such as were *not bailable*. As for the judges of the superior courts, it is probable that, in those days, they thought themselves bound by the obvious intent and meaning of the legislature. They considered not so much to what particular persons the prohibition was addressed, as what the *thing* was, which the legislature meant to prohibit, well knowing that in law, *quando aliquid prohibetur, prohibetur et omne, per quod devenitur ad illud*. "When any thing is forbidden, all the means, by which the same thing may be compassed or done, are equally forbidden."

By the statute of Richard the Third, the power of bailing was a little enlarged. Every justice of peace was authorized to bail for felony; but they were expressly confined to persons arrested *on light suspicion*; and even this power, so limited, was found to produce such inconveniences that, in three years after, the legislature found it necessary to repeal it. Instead of trusting any longer to a

single justice of peace, the act of 3rd Henry VIIth repeals the preceding act, and directs "that no prisoner (*of those who are mainpernable by the law*) shall be let to bail or mainprize, by less than *two* justices, whereof one to be of the quorum." And so indispensably necessary was this provision thought, for the administration of justice, and for the security and peace of society, that, at this time, an oath was proposed by the king to be taken by the knights and esquires of his household, by the members of the House of Commons, and by the peers spiritual and temporal, and accepted and sworn to *quasi una voce* by them all, which, among other engagements, binds them "not to let any man to bail or mainprize, knowing and deeming him to be a felon, upon your honour and worship. So help you God and all saints."

In about half a century however even these provisions were found insufficient. The act of Henry the Seventh was evaded, and the legislature once more obliged to interpose. The act of 1st and 2nd Philip and Mary takes away entirely from the justices all power of bailing for offences declared *not bailable* by the statute of Westminster.

The illegal imprisonment of several persons, who had refused to contribute to a loan exacted by Charles the First, and the delay of the *Habeas Corpus* and subsequent refusal to bail them, constituted one of the first and most important grievances of that reign. Yet when the House of Commons, which met in the year 1628, resolved

upon measures of the most firm and strenuous resistance to the power of imprisonment assumed by the king or privy council, and to the refusal to bail the party on the return of the *Habeas Corpus*, they did expressly, in all their resolutions, make an exception of commitments, where the cause of the restraint was expressed, and did by law justify the commitment. The reason of the distinction is, that, whereas when the cause of commitment is expressed, the crime is then known, and the offender must be brought to the ordinary trial; if, on the contrary, no cause of commitment be expressed, and the prisoner be thereupon remanded, it may operate to perpetual imprisonment. This contest with Charles the First produced the act of the 16th of that king, by which the Court of King's Bench are directed, within three days after the return to the *Habeas Corpus*, to examine and determine the legality of any commitment by the king or privy council, and to do *what to justice shall appertain* in delivering, bailing, or remanding the prisoner.—Now, it seems, it is unnecessary for the judge to do what appertains to justice. The same scandalous traffic, in which we have seen the privilege of parliament exerted or relaxed, to gratify the present humour, or to serve the immediate purpose of the crown, is introduced into the administration of justice. The magistrate, it seems, has now no rule to follow, but the dictates of personal enmity, national partiality, or perhaps the most prostituted corruption.

To complete this historical inquiry, it only remains to be observed that the *Habeas Corpus* Act of 31st of Charles the Second, so justly considered as another Magna Charta of the kingdom, “extends only to the case of commitments for such criminal charge, as can produce no inconvenience to public justice by a temporary enlargement of the prisoner.”—So careful were the legislature, at the very moment when they were providing for the liberty of the subject, not to furnish any colour or pretence for violating or evading the established law of bail in the higher criminal offences. But the exception, stated in the body of the act, puts the matter out of all doubt. After directing the judges how they are to proceed to the discharge of the prisoner upon recognizance and surety, having regard to the quality of the prisoner and nature of the offence, it is expressly added, “unless it shall appear to the said lord chancellor, &c. that the party, so committed, is detained for such matters, or offences, for the which BY THE LAW THE PRISONER IS NOT BAILABLE.”

When the laws, plain of themselves, are thus illustrated by facts, and their uniform meaning established by history, we do not want the authority of opinions, however respectable, to inform our judgment, or to conform our belief. But I am determined that you shall have no escape. Authority of every sort shall be produced against you, from *Jacob* to *lord Coke*, from the dictionary to the classic.—In vain shall you appeal from those

upright judges whom you disdain to imitate, to those whom you have made your example. With one voice, they all condemn you.

“To be taken with the *maner* is where a thief, having stolen any thing, is taken with the same about him, as it were in his hands, which is called *flagrante delicto*. Such a criminal is *not bailable by law*.”—*Jacob under the word Maner*.

“Those who are taken with the *maner*, are excluded, by the statute of Westminster, from the benefit of a replevin.”—*Hawkins, P. C. 2. 98*.

“Of such heinous offences no one, who is notoriously guilty, seems to be *bailable* by the intent of this statute.”—*D°. 2. 99*.

“The common practice, and allowed general rule is, that bail is only then proper, where it stands *indifferent* whether the party were guilty or innocent.”—*D°. D°*.

“There is no doubt but that the bailing of a person *who is not bailable by law*, is punishable either at common law as a negligent escape, or as an offence against the several statutes relative to bail.”—*D°. 89*.

“It cannot be doubted but that, neither the judges of this, nor of any other superior court of justice, are strictly within the purview of that statute, yet they will always, in their discretion, pay a due regard to it, and not admit a person to bail, who is expressly declared by it irreplevisable, *without some particular circumstance in his favour*; and therefore it seems difficult to find an instance,

where persons, attainted of felony, or notoriously guilty of treason or manslaughter, &c., by their own confession, or *otherwise*, have been admitted to the benefit of bail, without some special motive to the court to grant it.”—*D°*. 114.

“If it appears that any man hath injury or wrong by his imprisonment, we have power to deliver and discharge him;—if otherwise, *he is to be remanded* by us to prison again.”—*Lord Ch. J. Hyde. State Trials*, 7. 115.

“The statute of Westminster was especially for direction to the sheriffs and others, but to say courts of justice are excluded from this statute, I conceive it cannot be.”—*Attorney-General Heath, D°*. 132.

“The court, upon view of the return, judgeth of the sufficiency or insufficiency of it. If they think the prisoner *in law* to be *bailable*, he is committed to the marshal and bailed; if not, he is remanded.”—Through that whole debate the objection, on the part of the prisoners, was, that no cause of commitment was expressed in the warrant; but it was uniformly admitted by their counsel that, if the cause of commitment had been expressed for treason or felony, the court would then have done right in remanding them.

The attorney-general having urged, before a committee of both Houses, that, in Beckwith’s case and others, the lords of the council sent a letter to the Court of King’s Bench to bail; it was replied by the managers for the House of Commons,

that this was of no moment, “for that either the prisoner was *bailable by the law*, or *not bailable*;—if bailable by the law, then he was to be bailed without any such letter;—if not bailable by the law, then plainly the judges could not have bailed him upon the letter, without breach of their oath, which is, *that they are to do justice according to the law, &c.*”—*State Trials*, 7. 175.

“So that, in bailing upon such offences of the highest nature, a kind of discretion, rather than a constant law, hath been exercised, when it stands *wholly indifferent* in the eye of the Court, whether the prisoner be guilty or not.”—*Selden. State Trials*, 7. 230. 1.

“I deny that a man is always bailable, when imprisonment is imposed upon him for custody.”—*Attorney-General Heath, D°*. 238.—By these quotations from the *State Trials*, though otherwise not of authority, it appears plainly that, in regard to *bailable or not bailable*, all parties agreed in admitting one proposition as incontrovertible.

“In relation to capital offences there are especially these acts of parliament that are the common *landmarks* touching offences bailable or not bailable.”—*Hale*, 2. *P. C.* 127. The enumeration includes the several acts cited in this paper.

“Persons taken with the *manouvre* are not bailable, because it is *furtum manifestum*.”—*Hale*, 2. *P. C.* 133.

“The writ of *Habeas Corpus* is of a high nature; for if persons be wrongfully committed, they are

to be discharged upon this writ returned; or, if bailable, they are to be bailed;—*if not bailable, they are to be committed.*”—*Hale, 2. P. C. 143.* This doctrine of lord chief justice Hale refers immediately to the superior court from whence the writ issues.—“After the return is filed, the court is either to discharge, or bail, or *commit* him, as the nature of the cause requires.”—*Hale, 2. P. C. 146.*

“If bail be granted, *otherwise than the law alloweth*, the party that alloweth the same shall be fined, imprisoned, render damages, or forfeit his place, as the case shall require.”—*Selden by N. Bacon, 182.*

“This induces an absolute necessity of expressing, upon every commitment, the reason for which it is made; that the court, upon a *Habeas Corpus*, may examine into its validity, and, *according to the circumstances of the case*, may discharge, admit to bail, or *remand* the prisoner.”—*Blackstone, 3. 133.*

“Marriot was committed for forging indorsements upon bank bills, and, upon a *Habeas Corpus*, was bailed, because the crime was only a great misdemeanour;—for though the forging the bills be felony, yet forging the endorsement is not.”—*Salkeld, 1. 104.*

“Appell de mahem, &c. ideo ne fuit lesse a baille, nient plus que in appell de robbery ou murder; quod nota, et que in robry et murder le partie n'est bailable.”—*Bro. Mainprise, 67.*

“The intendment of the law in bails is, *quod stat*

indifferenter, whether he be guilty or no; but, when he is convict by verdict or confession, then he must be deemed in law to be guilty of the felony, and therefore *not bailable at all*.”—Coke, 2. *Inst.* 188.—4. 178.

“Bail is *quando stat indifferenter* and *not* when the offence is open and manifest.”—2. *Inst.* 189.

“In this case *non stat indifferenter*, whether he be guilty or no, being taken with the *maner*, that is, with the thing stolen, as it were in his hand.”—D°. D°.

“If it appeareth that this imprisonment be just and lawful, he *shall be remanded* to the former gaoler; but, if it shall appear to the court that he was imprisoned against the law of the land, they ought, by force of this statute, to deliver him; if it be *doubtful*, and under consideration, he may be bailed.”—2. *Inst.* 55.

It is unnecessary to load the reader with any further quotations. If these authorities are not deemed sufficient to establish the doctrine maintained in this paper, it will be in vain to appeal to the evidence of lawbooks, or to the opinions of judges. They are not the authorities by which lord Mansfield will abide. He assumes an arbitrary power of doing right; and, if he does wrong, it lies only between God and his conscience.

Now, my Lord, although I have great faith in the preceding argument, I will not say, that every minute part of it is absolutely invulnerable. I am too well acquainted with the practice of a certain

court, directed by your example, as it is governed by your authority, to think there ever yet was an argument, however conformable to law and reason, in which a cunning, quibbling attorney might not discover a flaw. But, taking the whole of it together, I affirm that it constitutes a mass of demonstration, than which nothing more complete or satisfactory can be offered to the human mind. How an evasive, indirect reply will stand with your reputation, or how far it will answer in point of defence at the bar of the House of Lords, is worth your consideration. If, after all that has been said, it should still be maintained, that the Court of King's Bench, in bailing felons, are exempted from all legal rules whatsoever, and that the judge has no direction to pursue, but his private affections, or mere unquestionable will and pleasure, it will follow plainly, that the distinction between *bailable* and *not bailable*, uniformly expressed by the legislature, current through all our law-books, and admitted by all our great lawyers without exception, is in one sense a nugatory, in another a pernicious, distinction. It is nugatory, as it supposes a difference in the bailable quality of offences, when, in effect, the distinction refers only to the rank of the magistrate. It is pernicious, as it implies a rule of law, which yet the judge is not bound to pay the least regard to, and impresses an idea upon the minds of the people, that the judge is wiser and greater than the law.

It remains only to apply the law, thus stated, to the fact in question. By an authentic copy of the *mittimus* it appears, that John Eyre was committed for felony, plainly and specially expressed in the warrant of commitment. He was charged before alderman Halifax by the oath of Thomas Fielding, William Holder, William Payne, and William Nash, for *feloniously stealing* eleven quires of writing-paper, value six shillings, the property of Thomas Beach, &c.—By the examinations, upon oath, of the four persons mentioned in the *mittimus*, it was proved, that large quantities of paper had been missed, and that eleven quires (previously marked from a suspicion that Eyre was the thief) were found upon him. Many other quires of paper, marked in the same manner, were found at his lodging; and after he had been some time in Wood-street Compter, a key was found in his room there, which appeared to be a key to the closet at Guildhall, from whence the paper was stolen. When asked what he had to say in his defence, his only answer was, *I hope you will bail me*. Mr Holder, the clerk, replied, *That is impossible. There never was an instance of it, when the stolen goods were found upon the thief*. The lord mayor was then applied to, and refused to bail him.—Of all these circumstances it was your duty to have informed yourself minutely. The fact was remarkable, and the chief magistrate of the city of London was known to have refused to bail the offender. To justify your compliance with the

solicitations of your three countrymen, it should be proved that such allegations were offered to you, in behalf of their associate, as honestly and *bona fide* reduced it to a matter of doubt and indifference whether the prisoner was innocent or guilty.—Was any thing offered by the Scotch triumvirate that tended to invalidate the positive charge made against him by four creditable witnesses upon oath?—Was it even insinuated to you, either by himself or his bail, that no felony was committed;—or that *he* was not the felon;—that the stolen goods were *not* found upon him;—or that he was only the receiver, not knowing them to be stolen?—Or, in short, did they attempt to produce any evidence of his insanity?—To all these questions, I answer for you, without the least fear of contradiction, positively NO. From the moment he was arrested, he never entertained any hope of acquittal; therefore thought of nothing but obtaining bail, that he might have time to settle his affairs, convey his fortune into another country, and spend the remainder of his life in comfort and affluence abroad. In this prudential scheme of future happiness, the lord chief justice of England most readily and heartily concurred. At sight of so much virtue in distress, your natural benevolence took the alarm. Such a man as Mr Eyre, struggling with adversity, must always be an interesting scene to lord Mansfield.—Or was it that liberal anxiety, by which your whole life has been distinguished, to enlarge the liberty of the subject?—My Lord, we

did not want this new instance of the liberality of your principles. We already knew what kind of subjects they were, for whose liberty you were anxious. At all events the public are much indebted to you for fixing a price, at which felony may be committed with impunity. You bound a felon, notoriously worth thirty thousand pounds, in the sum of three hundred. With your natural turn to equity, and knowing, as you are, in the doctrine of precedents, you undoubtedly meant to settle the proportion between the fortune of the felon, and the fine by which he may compound for his felony. The ratio now upon record, and transmitted to posterity under the auspices of lord Mansfield, is exactly one to a hundred.—My Lord, without intending it, you have laid a cruel restraint upon the genius of your countrymen. In the warmest indulgence of their passions they have an eye to the expense, and if their other virtues fail us, we have a resource in their economy.

By taking so trifling a security from John Eyre, you invited and manifestly exhorted him to escape. Although in bailable cases, it be usual to take four securities, you left him in the custody of three Scotchmen, whom he might have easily satisfied for conniving at his retreat. That he did not make use of the opportunity you industriously gave him, neither justifies your conduct, nor can it be any way accounted for, but by his successive and monstrous avarice. Any other man, but this bosom-friend of three Scotchmen, would gladly

have sacrificed a few hundred pounds, rather than submit to the infamy of pleading guilty in open court. It is possible indeed that he might have flattered himself, and not unreasonably, with the hopes of a pardon. That he would have been pardoned seems more than probable, if I had not directed the public attention to the leading step you took in favour of him. In the present gentle reign, we well know what use has been made of the lenity of the court and of the mercy of the crown. The lord chief justice of England accepts of the hundredth part of the property of a felon taken in the fact, as a recognizance for his appearance. Your brother *Smythe* brow-beats a jury, and forces them to alter their verdict, by which they had found a Scotch serjeant guilty of murder; and though the Kennedies were convicted of a most deliberate and atrocious murder, they still had a claim to the royal mercy.—They were saved by the chastity of their connexions.—They had a sister;—yet it was not her beauty, but the pliancy of her virtue, that recommended her to the king.—The holy author of our religion was seen in the company of sinners; but it was his gracious purpose to convert them from their sins. Another man, who in the ceremonies of our faith might give lessons to the great enemy of it, upon different principles keeps much the same company. He advertises for patients, collects all the diseases of the heart, and turns a royal palace into an hospital for incurables.—A man of honour has no ticket of

admission at St James's. They receive him, like a virgin at the Magdalen;—*Go thou and do likewise.*

My charge against you is now made good. I shall however be ready to answer or to submit to fair objections. If, whenever this matter shall be agitated, you suffer the doors of the House of Lords to be shut, I now protest, that I shall consider you as having made no reply. From that moment, in the opinion of the world, you will stand self-convicted. Whether your reply be quibbling and evasive, or liberal and in point, will be matter for the judgment of your peers;—but if, when every possible idea of disrespect to that noble house (in whose honour and justice the nation implicitly confides) is here most solemnly disclaimed, you should endeavour to represent this charge as a contempt of their authority, and move their Lordships to censure the publisher of this paper, I then affirm that you support injustice by violence, that you are guilty of a heinous aggravation of your offence, and that you contribute your utmost influence to promote, on the part of the highest court of judicature, a positive denial of justice to the nation.

JUNIUS.

TO THE RIGHT HONOURABLE LORD CAMDEN

MY LORD,—I turn with pleasure from that barren waste in which no salutary plant takes root, no verdure quickens, to a character fertile, as I willingly believe, in every great and good qualification. I call upon you, in the name of the English nation, to stand forth in defence of the laws of your country, and to exert, in the cause of truth and justice, those great abilities, with which you were entrusted for the benefit of mankind. To ascertain the facts set forth in the preceding paper, it may be necessary to call the persons, mentioned in the *mittimus*, to the bar of the House of Lords. If a motion for that purpose should be rejected, we shall know what to think of lord Mansfield's innocence. The legal argument is submitted to your lordship's judgment. After the noble stand you made against lord Mansfield upon the question of libel, we did expect that you would not have suffered that matter to have remained undetermined. But it was said that lord chief justice Wilmot had been *prevailed upon* to vouch for an opinion of the late judge Yates, which was supposed

to make against you; and we admit of the excuse. When such detestable arts are employed to prejudice a question of right, it might have been imprudent, at that time, to have brought it to a decision. In the present instance you will have no such opposition to contend with. If there be a judge or lawyer of any note in Westminster Hall, who shall be daring enough to affirm that, according to the true intendment of the laws of England, a felon, taken with the *maner, in flagrante delicto*, is bailable; or that the discretion of an English judge is merely arbitrary, and not governed by rules of law,—I should be glad to be acquainted with him. Whoever he be, I will take care that he shall not give you much trouble. Your Lordship's character assures me that you will assume that principal part, which belongs to you, in supporting the laws of England, against a wicked judge, who makes it the occupation of his life to misinterpret and pervert them. If you decline this honourable office, I fear it will be said that, for some months past, you have kept too much company with the duke of Grafton. When the contest turns upon the interpretation of the laws, you cannot, without a formal surrender of all your reputation, yield the post of honour even to lord Chatham. Considering the situation and abilities of lord Mansfield, I do not scruple to affirm, with the most solemn appeal to God for my sincerity, that, in *my* judgment, he is the very worst and most dangerous man in the kingdom.

Thus far I have done my duty in endeavouring to bring him to punishment. But mine is an inferior, ministerial office in the temple of justice.—I have bound the victim, and dragged him to the altar.

JUNIUS.

THE END

